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LAWS OF INDIANA

RELATING TO THE

PUBLIC SCHOOL SYSTEM

Prepared Under the Direction of

HORACE ELLIS

State Superintendent of Public Instruction

By

BENJAMIN J. BURRIS

Assistant

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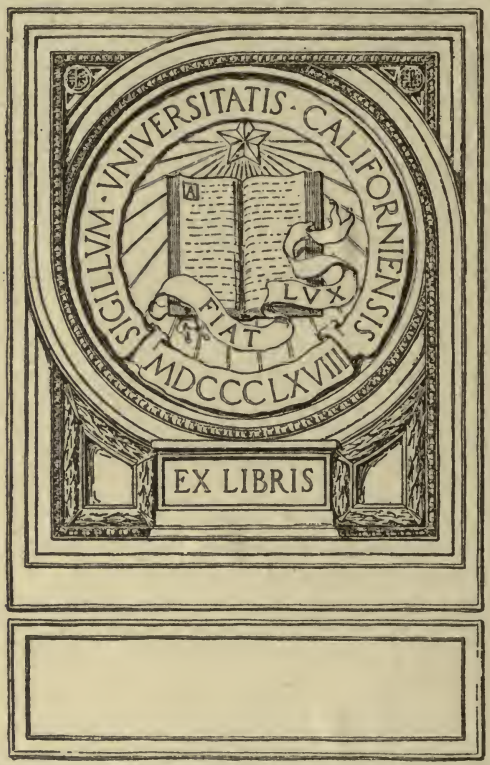
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UNIV. OF CALIFORNIA

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EXPLANATORY PREFACE.

This compilation contains the general laws of the State of Indiana of practical use and application, relating to the public schools, the higher institutions of learning, and the public libraries and other intimately affiliated institutions. The Revision of 1914 of Burns' Annotated Indiana Statutes has been used as the basis for the compilation, and this revision has been supplemented by the school laws enacted at the sessions of the General Assembly held in 1915 and 1917.

The laws embodied in this collection have been arranged by subjects and numbered by compiler's sections in consecutive order. The first number given in bold face type is the compiler's section number; then follows the general descriptive title of the section, and this is succeeded by the number of the section as assigned in the session laws. At the close of each section is given the citation to the corresponding section in Burns' Annotated Statutes of 1914. Following the sections will be found annotations in smaller type giving the substance of the decisions of the Supreme and Appellate Courts, the Attorney-General and the construction which the State Department of Education has placed upon the section.

The Department of Public Instruction begs to acknowledge its obligation to the many general sources of information, and particularly to Honorable Charles Kettleborough whose splendid co-operation made the task both enjoyable and easy.

BENJAMIN J. BURRIS,

Assistant Superintendent of Public Instruction.

381247

COUNTY SUPERINTENDENTS OF INDIANA.

Elected June 4, 1917. Term Expires 1921.

	County.	Name.	Address.
1	*Adams	E. S. Christen	Decatur.
2	*Allen	D. O. McComb	Fort Wayne.
3	*Bartholomew	Samuel Sharo	Columbus.
4	Benton	M. F. O'Rear	Fowler.
5	*Blackford	M. Clifford Townsend	Hartford City.
6	*Boone	Edgar M. Servies	Lebanon.
7	Brown	Grover G. Brown	Nashville.
8	Carroll	T. W. Armstrong	Delphi.
9	Cass	J. E. Ludders	Logansport.
10	*Clark	Samuel L. Scott	Jeffersonville
11	*Clay	Willis E. Akre	Brazil.
12	Clinton	M. D. Boulden	Frankfort.
13	Crawford	H. W. Toney	English.
14	Daviess	J. E. Gilley	Washington.
15	*Dearborn	George C. Cole	Lawrenceburg.
16	Decatur	James R. Crawley	Greensburg.
17	Dekalb	F. M. Merica	Auburn.
18	*Delaware	Ernest J. Black	Muncie.
19	Dubois	Robert E. Eckert	Jasper.
20	*Elkhart	A. E. Weaver	Goshen.
21	Fayette	E. Earl Lines	Connersville.
22	*Floyd	Glenn V. Scott	New Albany.
23	Fountain	Guy A. Waldrip	Covington.
24	Franklin	James A. Fisher	Brookville.
25	Fulton	Thomas F. Berry	Rochester.
26	Gibson	Leland S. Cunningham	Princeton.
27	*Grant	Charles H. Terrell	Marion.
28	Greene	Walter T. Brown	Bloomfield.
29	*Hamilton	Walter M. Harger	Noblesville.
30	*Hancock	George J. Richman	Greenfield.
31	*Harrison	Arville O. Deweese	Corydon.
32	*Hendricks	Theo. T. Martin	Danville.
33	*Henry	Harry B. Roberts	Newcastle.
34	*Howard	Albert F. Hutson	Kokomo.
35	*Huntington	Clifford Funderburg	Huntington.
36	Jackson	Harry B. Henderson	Brownstown.
37	Jasper	Morgan L. Sterrett	Rensselaer.
38	*Jay	William R. Armstrong	Portland.
39	Jefferson	W. Guy Pender	Madison.
40	*Jennings	Sheperd M. Whitcomb	Vernon.
41	*Johnson	W. J. Yount	Franklin.
42	*Knox	Edgar N. Haskins	Vincennes.
43	*Kosciusko	Jesse Bruner	Warsaw.
44	Lagrange	Arthur B. Cookerly	Lagrange.
45	*Lake	Frank F. Heighway	Crown Point.

COUNTY SUPERINTENDENTS OF INDIANA—Continued.

	County.	Name.	Address.
46	*Laporte	Fred R. Farnam	Laporte.
47	Lawrence	William C. Roberts	Bedford.
48	*Madison	James W. Frazier	Anderson.
49	*Marion	Lee E. Swails	Indianapolis.
50	Marshall	Floyd M. Annis	Plymouth.
51	*Martin	Charles O. Williams	Shoals.
52	Miami	Dorph H. Brown	Peru.
53	*Monroe	William H. Jones	Bloomington.
54	*Montgomery	Karl C. James	Crawfordsville.
55	Morgan	Lewis Williams	Martinsville.
56	*Newton	William O. Schanlaub	Kentland.
57	Noble	Guy R. Hall	Albion.
58	Ohio	John L. Wessler	Rising Sun.
59	Orange	Jesse M. Trinkle	Paoli.
60	*Owen	Albert Free	Spencer.
61	*Parke	John H. Jollief	Rockville.
62	*Perry	Lee B. Mullen	Cannelton.
63	Pike	Howard Brenton	Petersburg.
64	*Porter	Fred H. Cole	Valparaiso.
65	*Posey	G. E. Behrens	Mt. Vernon.
66	Pulaski	W. E. Tennell	Winamac.
67	*Putnam	L. G. Wright	Greencastle.
68	*Randolph	Lee L. Driver	Winchester.
69	*Ripley	Chas. R. Hertenstein	Versailles.
70	*Rush	Chester M. George	Rushville.
71	*Scott	William S. Griffith	Scottsburg.
72	*Shelby	William Everson	Shelbyville.
73	*Spencer	Joseph W. Strassell	Rockport.
74	Starke	J. Allen Barr	Knox.
75	*St. Joseph	Ralph Longfield	South Bend.
76	*Steuben	H. Lyle Shank	Angola.
77	*Sullivan	Richard Park	Sullivan.
78	Switzerland	Ernest Danglade	Vevay.
79	*Tippecanoe	C. V. Peterson	Lafayette.
80	*Tipton	Elmer L. Mitchell	Tipton.
81	*Union	Charles C. Abernathy	Liberty.
82	*Vanderburgh	K. W. Hemmer	Evansville.
83	*Vermillion	R. H. Valentine	Newport.
84	*Vigo	James M. Probst	Terre Haute.
85	*Wabash	A. B. Oswalt	Wabash.
86	*Warren	Harry Evans	Williamsport.
87	Warrick	Ivor J. Robinson	Boonville.
88	*Washington	Orra Hopper	Salem.
89	*Wayne	Charles O. Williams	Richmond.
90	*Wells	Arthur R. Huyette	Bluffton.
91	*White	Henry J. Reid	Monticello.
92	*Whitley	Alvin R. Fleck	Columbia City.

*Re-elected.

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CHAPTER I.

Constitutional Provisions.

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Article VIII.

[In force November 1, 1851.]

1. Common Schools. 1. Knowledge and learning generally diffused throughout a community being essential to the preservation of a free government, it shall be the duty of the general assembly to encourage, by all suitable means, moral, intellectual, scientific and agricultural improvement, and to provide by law for a general and uniform system of common schools, wherein tuition shall be without charge and equally open to all. (§182.)

2. Common School Fund. 2. The common school fund shall consist of the congressional township fund, and the lands belonging thereto;

The surplus revenue fund;

The saline fund, and the lands belonging thereto;

The bank tax fund, and the fund arising from the one hundred and fourteenth section of the charter of the State Bank of Indiana;

The fund to be derived from the sale of county seminaries, and the moneys and property heretofore held for such seminaries; from the fines assessed for breaches of the penal laws of the state; and from all forfeitures which may accrue;

All lands and other estate which shall escheat to the state for want of heirs or kindred entitled to the inheritance;

All lands that have been or may hereafter be granted to the state, where no special purpose is expressed in the grant and the proceeds of the sales thereof; including the proceeds of the sales of the Swamp Lands granted to the State of Indiana by the act of Congress, of the 28th of September, 1850, after deducting the expense of selecting and draining the same;

Taxes on the property of corporations that may be assessed by the general assembly for common school purposes.

1. Fines and forfeitures here contemplated are such as are assessed in criminal proceedings and not such penalties as may be recovered in civil actions. Thus, if a law provides that any person violating its provisions shall be liable to a penalty of $200 to be collected in a civil action, the amount does not go to the school fund. See 157 Ind. 37.

2. State v. Ind. R. R. Co., 133 Ind. 69. Western Union Co. v. Ferguson, 157 Ind. 37.

3. Principal, a Perpetual Fund. 3. The principal of the common school fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of common schools and to no other purpose whatever. (§184.)

1. Diversion. This "fund must be devoted to the support of the common schools without the diversion from it of a penny for any other purpose whatever."—Board v. State, 120 Ind. 282; Board v. State, 116 Ind. 329.

4. Investment and Distribution. 4. The general assembly shall invest, in some safe and profitable manner, all such portions of the common schools fund as have not heretofore been entrusted to the several counties, and shall make provision by law, for the distribution among the several counties of the interest thereof. (§185.)

1. "Invest" Defined. The word "invest" is construed as broad enough to cover loans made by counties, and that the fund may be entrusted to them for that purpose, but it does not restrict to that mode of investment.—Shoemaker v. Smith, 37 Ind. 122.

5. Reinvestment. 5. If any county shall fail to demand its proportion of such interest, for common school purposes, the same shall be reinvested for the benefit of such county. (§186.)

6. Counties—Liability. 6. The several counties shall be held liable for the preservation of so much of said fund as may be entrusted to them, and for the payment of the annual interest thereon. (§187.)

1. Rents. A county is liable for rents derived from unsold congressional township lands.—Davis v. Board, 44 Ind. 38; Board v. State, 116 Ind. 329.

7. Trust Funds Inviolate. 7. All trust funds held by the state shall remain inviolate and be faithfully and exclusively applied to the purposes for which the trust was created. (§188.)

1. Expense of Management. The constitution requires the counties to bear the expense of managing the school fund; and if they pay out any part of the fund for such expense they are liable to make the loss good.—Board v. State, 103 Ind. 497; Vanarsdall v. State, 65 Ind. 176; State v. Board, 90 Ind. 359; Board v. State, 116 Ind. 329; Board v. State, 138 Ind. 395.

8. Superintendent of Public Instruction. 8. The general assembly shall provide for the election, by the voters of the state, of a state superintendent of public instruction, who shall hold his office for two years, and whose duties and compensation shall be prescribed by law. (§189.)

Article XIII

9. Political and Municipal Corporations. 1. No political or municipal corporation in this state shall ever become indebted, in any manner or for any purpose, to any amount, in the aggregate exceeding two per centum on the value of taxable property within such corporation, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount, given by such corporations, shall be void: *Provided*, That in time of war, foreign invasion, or other great public calamity on petition of a majority of the property owners, in number and value, within the limits of such corporation, the public authorities, in their discretion, may incur obligations necessary for the public protection and defense, to such an amount as may be requested in such petition. (§190.)

Amendment of March 24, 1881.

1. The civil city and the school city are distinct corporations under this section and each may become indebted to an amount equal to two per cent of their assessed valuation. See Heinl v. City of Terre Haute, 161 Ind. 44; Campbell v. City of Indianapolis, 155 Ind. 186.

2. This article applies to bonds issued by cities and towns to build schoolhouses. —Town of Winamac v. Huddleston, 132 Ind. 217; Wilcoxon v. City of Bluffton, 153 Ind. 267. Debts contracted by the school corporation of a city for school purposes can not be considered as debts of the civil city in determining the amount of its indebtedness when such civil city had no part in contracting such debts, even though such debts may not be valid obligations against such school corporation. Heinl v. City of Terre Haute, 161 Ind. 44. The indebtedness contracted by the school authorities in cities of 100,000 is not to be considered as the indebtedness of the civil corporation in determining whether such corporation is indebted to the constitutional limit. Campbell v. City of Indianapolis, 155 Ind. 186. In computing the indebtedness of a school city, the debts of a civil city are not to be included.—Caldwell v. Bauer, 99 N. E. 117.

CHAPTER II.

Superintendent of Public Instruction.

Sec.		Sec.	
9a.	Superintendent—Election.	16.	Supervision of school funds.
10.	Commencement of term—Oath.	17.	May require reports.
11.	Duties—Office—Clerks.	18.	Blanks and forms.
12.	Report to Governor.	19.	Shall publish school law.
13.	Report to general assembly.	20.	Journals, etc., to libraries.
14.	Duties.	21.	Certificates from other states.
15.	Traveling expenses.	22.	Schedule of item for success grades.

[Acts 1865, p. 3. Approved and in force March 6, 1865.]

9a. Superintendent—Election. 119. There shall be elected by the qualified voters of the state, at a general election, a state superintendent of public instruction, who shall hold his office for two years. (§6293.)

1. Salaries.

FOR THE FISCAL YEAR, 1917-1918, THE FOLLOWING AMOUNTS WERE APPROPRIATED FOR THE DEPARTMENT OF PUBLIC INSTRUCTION.

Salary of Superintendent	$5,000.00
Salary of Assistant Superintendent	2,500.00
Salary of Deputy Superintendent	1,800.00
Salary of Clerk	1,400.00
Salary of High School Inspector	2,500.00
Salary of Stenographer	900.00
Office and traveling expenses	2,000.00

10. Commencement of Term—Oath. 120. His official term shall commence on the fifteenth day of March succeeding his election. He shall take and subscribe the oath prescribed by law; which proceeding shall in all things conform to the law relative to the oaths of public officers. (§6294.)

11. Duties—Office—Clerks. 121. The superintendent shall be charged with the administration of the system of public instruction and a general superintendence of the business relating to the common schools of the state, and of the school funds and school revenues set apart and appropriated for their support. A suitable office shall be furnished for him at the seat of government, in which the books, papers and effects relating to the business of said office shall be kept; and there he shall give reasonable attendance to the business and duties of the office. He shall render an opinion in writing, to any school officer asking the same, touching the administration or construction of the school law. He is hereby authorized to employ two clerks for said office, to be paid as the clerks of the office of the auditor of state are paid; and the sum of eighteen hundred dollars is hereby annually appropriated for that purpose. (§6295.)

1. Opinions. He is not bound to give opinions except to school officers—that is county auditors, county treasurers and superintendents, township trustees, school

directors, and school trustees of towns and cities. But the courtesy of superintendents has established the custom of answering questions touching the construction and administration of the school laws for all who need such information.

2. His Opinion Entitled to Consideration. When a law admits of different constructions, it is well settled that the usage under it and the practical construction of it for a series of years, is entitled to great weight, and sometimes may be decisive.—Appeal of Cottrell. 10 R. I. 615.

12. Report to Governor. 122. In the month of January in each year in which there is no regular session of the general assembly, he shall make a brief report, in writing, to the Governor, indicating, in general terms, the enumeration of the children of the state for common school purposes, the additions to the permanent school fund within the year, the amount of school revenue collected within the year, and the amounts apportioned and distributed to the schools. (§6297.)

13. Report to General Assembly. 123. At each regular session of the general assembly, on or before the fifteenth day of January, said superintendent shall present a biennial report of his administration of the system of public instruction, in which he shall furnish a brief exhibit:

First. Of his labors, the results of his experience and observation as to the operation of said system, and suggest the remedy for observed imperfections.

Second. Of the amount of the permanent school funds, and their general condition as to safety of manner of investment; the amount of revenue annually derived therefrom, and from other sources; estimates for the following two years; and the estimated value of all other property set apart or appropriated for school purposes.

Third. Of such plans as he may have matured for the better organization of the schools, and for the increase, safe investment, and better preservation and management of the permanent school funds and for the increase and more economical expenditure of the revenue for tuition.

Fourth. He shall present a comparison of the results of the year then closing with those of the year next preceding, and, if deemed expedient, of years preceding that, so as to indicate the progress made in the business of public instruction.

Fifth. He shall furnish such other information relative to the system of public instruction—the schools, their permanent funds, annual revenues, etc., as he may think to be of interest to the general assembly.

He shall append to said report statistical tables, compiled from the materials transmitted to his office by the proper officers, with proper summaries, averages and totals appended thereto. He shall append a statement of the semi-annual collections of school revenue, and his apportionment thereof; and, when he deems it of sufficient interest to do so, he shall append extracts from the correspondence of school officers, tending to show either the salutary or defective operation of the system or of any of its parts; and shall cause ten thousand copies to be printed and distributed to the several counties of the state. (§6298.)

14. Duties. 124. He shall visit each county in the state at least once during his term of office, and examine the auditor's books and records relative to the school funds and revenues with a view to ascertain the amount and

the safety and preservation of said funds and revenues; and for that purpose he shall have access to, and full power to require for inspection the use of the books and papers of the auditor's office. Whenever he may discover that any of the school funds are unsafely invested and unproductive of school revenue, or that any of the school revenues have been diverted from their proper objects, he shall report the same to the general assembly. He shall meet with such school officers as may attend his appointment, counseling with the teachers, and lecturing upon topics calculated to subserve the interests of popular education. (§6299.)

15. Traveling Expenses. 125. He shall receive, for traveling and other expenses while traveling on the business of the department, a sum not exceeding six hundred dollars per annum, and an appropriation of that amount is hereby made for that purpose annually. (§6300.)

1. NOTE. The traveling expense fund is by appropriation, $1,000.00; the office expense fund is also $1,000.00.

16. Supervision of School Funds. 126. He shall exercise such supervision over the school funds and revenues as may be necessary to ascertain their safety, and secure their preservation and application to the proper object; and cause to be instituted in the name of the State of Indiana, for the use of the proper fund or revenue, all suits necessary for the recovery of any portion of said funds or revenues. It is hereby made the duty of the proper circuit prosecuting attorney to prosecute all such suits at the instance of the superintendent, and without charge against said funds or revenue. (§6301.)

1. MAY EMPLOY ATTORNEY. This section authorizes the state superintendent and auditor of state to employ an attorney to collect a claim due the school fund, and their contract in this behalf is the contract of the state.—State v. Sims, 76 Ind. 328.

17. May Require Reports. 127. He may require of the county auditors, county superintendents, county treasurers, trustees, clerks, and treasurers, copies of all reports required to be made by them, and all such other information in relation to the duties of their respective offices, so far as they relate to the condition of the school funds, revenues and property of the common schools and the condition and management of such schools, as he may deem important. (§6302.)

18. Blanks and Forms. 128. He may prepare, and transmit to the proper officers, suitable forms and regulations for making all reports, and the necessary blanks therefor, and all necessary instructions for the better organization and government of common schools, and conducting all necessary proceedings under this act. (§6303.)

19. Shall Publish School Laws. 129. He shall cause as many copies of the acts of the general assembly in relation to the common schools or the school funds, with necessary forms, instructions and regulations, to be from time to time printed and distributed among the school townships as he shall deem the public good requires. (§6305.)

20. Journals, etc., to Libraries. 130. He shall supply each common school library with the legislative and documentary journals, and the acts of each session of the general assembly and his own annual reports. At the

expiration of his term of office he shall deliver to his successor possession of the office, and all books, records, documents, papers, and other articles pertaining or belonging to his office. (§6306.)

[Acts 1899, p. 448. Approved March 4, 1899. In force April 28, 1899.]

21. Certificates from Other States. 1. The state superintendent of public instruction may countersign the life state certificate of teachers of other states, when the holders of such certificates shall have furnished satisfactory evidence of good moral character, and experience and success in teaching, as is required for life state certificates in this state; and when so countersigned such certificates shall be valid in any of the schools of this state: *Provided*, That the requirements for obtaining the life state certificates of other states shall be equivalent to the requirements for the same certificates in this state. (§6312.)

1. NOTE. Only life state certificates can be countersigned.

22. Schedule of Items for Success Grades. 8. The state superintendent of public instruction is hereby required to provide from time to time such schedule of items as should in his judgment, enter into the record and grading of a teacher's success by the city, town, and county superintendent of schools. (Acts 1915, p. 632.)

1. See section 46 for schedule for success grade.

CHAPTER III.

State Board of Education.

Sec.		Sec.	
23.	State board of education.	25.	State certificates.
24.	Duties and powers.	26.	Pay and mileage of board.

23. State Board of Education. (Acts of 1913, p. 39.) 7. The state board of education shall consist of the superintendent of public instruction, the presidents of Purdue University, the State University and the State normal school, superintendents of schools of the three cities having the largest enumeration of children for school purposes annually reported to the state superintendent of public instruction, as provided by law, three citizens actively engaged in educational work in the state, at least one of whom shall be a county superintendent of schools, and three persons actively interested in, and of known sympathy with, vocational education, one of whom shall be a representative of employes and one of employers.

The Governor shall appoint the members of the board, except the ex officio members, for a term of four years.

In the first instance one member shall be appointed for two years, one for three years and one for four years. The present appointive members shall serve until the expiration of the time for which they were appointed. The Governor shall fill all vacancies occurring in the board for the unexpired term, and each member shall serve until his successor shall have been appointed and qualified.

The superintendent of public instruction shall, ex officio, be president of the board, and in his absence the members present shall elect a president pro tempore. The board shall elect one of its members secretary and treasurer, who shall have the custody of its records, papers and effects, and shall keep minutes of its proceedings. The records, papers, effects and minutes shall be kept at the office of the superintendent, and shall be open for inspection. The board shall meet upon the call of the president, or a majority of its members, at such place in the state as may be designated in the call. They shall adopt and use a seal, on the face of which shall be the words "Indiana state board of education," or such other device or motto as the board may direct, an impression and written description of which shall be recorded on the minutes of the board and filed in the office of the secretary of state, which seal shall be used for the authentication of the acts of the board and the important acts of the superintendent of public instruction.

The board shall have all the powers and perform all the duties now imposed by law on the state board of education. (§6641g.)

[Acts 1865, p. 3. Approved March 6, 1865.]

24. Duties and Powers. 154. Said board, at its meeting, shall perform such duties as are prescribed by law, and may make and adopt such

rules, by-laws and regulations as may be necessary for its own government, and for the complete carrying into effect the provisions of the next section of this act, and not in conflict with the laws of the state, and shall take cognizance of such questions as may arise in the practical administration of the school system not otherwise provided for, and duly consider, discuss, and determine the same. (§6310.)

1. County Superintendent. It is the duty of the county superintendent to carry out the instructions of the state board and state superintendent.

25. State Certificates. 155. Said board may grant state certificates of qualification to such teachers as may, upon a thorough and critical examination, be found to possess eminent scholarship and professional ability, and shall furnish satisfactory evidence of good moral character. They shall hold stated meetings, at which they shall examine all applicants, and those found to possess the qualifications herein above named shall receive such certificate, signed by the president of the board, and impressed with the seal thereof; and the said certificate shall entitle the holder to teach in any of the schools of the state without further examination, and shall also be valid the lifetime of said holder, unless revoked by said board. Each applicant for examination shall, on making application, pay into the treasurer of the board five dollars as a fee. (§6311.)

Teachers' Licenses.

The laws of Indiana give the power to issue teachers' licenses to the state board of education, the superintendent of public instruction and the county superintendents.

The state board of education has general control of the entire system. This board prepares the uniform questions to be used in the examinations, fixes the standards and arranges for licensing the teachers in those subjects not provided for by specific statutes.

The general regulations relating to teacher's licenses are as follows:

1. Licenses Issued by State Board of Education.

A. Professional.

(*Division 1 of Life State.*) Valid for eight years in any public school of the state, for all subjects except vocational and prevocational subjects. The examination for this license is held annually on the last Saturday in February. The subjects are: Algebra, Civil Government, American Literature, Science of Education and two of these six: Physics, Botany, German, French, Spanish and Latin.

To be eligible for this examination the applicant must have held two thirty-six months' common school licenses. In addition he must have had at least forty-eight months successful experience as a teacher.

Licenses are granted to those who make a general average of 85 per cent and do not fall below 75 per cent in any subject. If the average is 85 per cent or more and the grade in a single subject is below 75 per cent the applicant is conditioned. If a passing grade is made in the conditioned subject at the next annual examination, a license is issued. No fee is required for this examination.

Note. Sixty months' licenses are no longer issued, but a sixty months' license granted under the operation of the former law may be offered to meet the eligibility requirement for the professional examination on the same basis as a thirty-six months' license.

B. Life.

(*1*) (*For Holders of Professional Licenses.*) Valid for life in any public school of the state, for all subjects except vocational and prevocational subjects. The examination is held annually in April and is open to any one who holds a professional license. The subjects are: Geometry, Rhetoric, General History, English Literature, Physical Geography and two of these three: Chemistry, Geology and Zoölogy.

The professional license regulations as to grades and conditions apply without change to this general life license.

The fee for this examination is five dollars.

Note. The holder of a professional license can not offer such license to meet the eligibility requirement for the Life State examination after the year of the expiration of the professional license.

(*2*) (*For Graduates of Standard Colleges.*) Valid for life in any public school of the state, for all subjects except vocational and pre-vocational subjects. The examination is held annually in April. It is open to graduates of standard colleges who have held a thirty-six months' common school license, or a license of higher grade, and who have had thirty months successful experience with at least ten months of it in Indiana. The subjects are any three of the following: General History of Education, the School System and the School Law of Indiana, Educational Psychology, Experimental Psychology and Child Study, Leading School System of Europe and America, Science of Education, and Principles and Methods of Instruction.

The grades required are the same as those for a Professional License. No conditions are allowed.

The fee for this examination is five dollars.

NOTES. *For Graduates of Standard Colleges only.* The state board of education revised its rules governing applicants for life state licenses by the addition of the following resolutions:

Resolved, That the rules of the state board of education relating to examinations for and the granting of life state licenses shall be and are hereby amended by the addition of the following: All graduates of higher institutions of learning in Indiana, or other institutions of equal rank in other states approved by this board, which require graduation from Commissioned High Schools, or the equivalent of the same, as a condition of entrance, which maintain standard courses of study of at least four years, and whose work, as to scope and quality, is approved by the state board of education, shall on complying with the conditions (stated above), be entitled to life state licenses to teach in Indiana.

2. The state board of education reserves the right to call before it any applicant for oral examination, in addition to the written examination based upon the questions submitted for life state and professional licenses (p. 429, record).

RULES FOR PROFESSIONAL AND LIFE EXAMINATION.

1. Write upon one side of the paper only, using legal cap.
2. See that the answers to the questions in each branch are entirely separate from those of any other branch, and securely fastened together.
3. Write full name and postoffice address upon each set of answers, and upon every sheet disconnected from the first one.
4. Answer the general questions upon a separate sheet.
5. Furnish the examiner with a certified statement of experience and with three testimonials as to success.
6. Furnish the necessary postage to forward your manuscript to Indianapolis.

PLACES FOR PROFESSIONAL AND LIFE EXAMINATIONS.

State board examinations are held annually on the last Saturdays of February and April at the following places:

1. In the Department of Public Instruction, State House,
2. In the office of the City Superintendent of Schools, Ft. Wayne.
3. In the office of the City Superintendent of Schools, Evansville.
4. In the office of the City Superintendent of Schools, Valparaiso.
5. In the office of the County Superintendent of Schools, Richmond.
6. In the office of the President of the State Normal School, Terre Haute.
7. In the office of the President of Purdue University, Lafayette.
8. In the office of the City Superintendent of Schools, New Albany.
9. In the office of the President of Indiana University, Bloomington.

It is recommended by the state board of education that the county superintendents require the registration of professional and life state licenses, when the holders of such licenses desire to contract to teach within the county.

It is recommended by the state board of education that the daily wage of teachers who contract on professional licenses or life state licenses shall not be less than an amount determined by multiplying four cents by 95, provided that 2 shall be added to the 95 for attending the county institute the full number of days.

C. Special License.

Valid for three years to teach in the district schools and the grades in the small towns. By a law enacted in 1907 the State Board of Education was empowered to provide a special two year-course for teachers. This course is given by such accredited schools as make proper provision for it. Graduates of this course are permitted to teach without examination in the district schools and grades in the small towns of the state for a period of three years from the date of the completion of the course. Teachers of this class who desire to teach in city schools must pass the regular examination.

All two-year special course teachers without experience are in Class A. Those with one or more years' experience are in Class B. The salary grade in Class A is 85 per cent, and in Class B 90 per cent. Any teacher has the privilege of raising these grades by examination.

2. LICENSES ISSUED BY THE STATE SUPERINTENDENT.

A. Common School.

General Requirements. Graduates of commissioned or certified high schools, or the equivalent, who have had the professional training required by law, are eligible to receive license upon this examination. All teachers who were in the service prior to August, 1908, are eligible.

The subjects are as follows: Required of all: Spelling, Writing, Arithmetic, Grammar, Literature, United States History, Reading, Physiology and Scientific Temperance, Geography and Science of Education. Optional: Agriculture, Domestic Science, Industrial Arts, Music, and Drawing.

For the year, 1916, the following options in the required list are allowed: Science of Education or "The Teacher and the School" (Colegrove); United States History or "The Rise of the American People" (Usher).

In grading writing the entire manuscript is considered, and in grading spelling, one per cent is deducted for each word incorrectly written.

All manuscripts in drawing must be upon drawing paper and prepared with proper drawing material.

In grading each subject of the examination the quality of the English used shall be taken into consideration.

When an applicant writes upon optional subjects, the grades in such subjects will be considered in the same manner as the grades in the required subjects in determing his success or failure.

In each subject eight questions are given, and applicants are required to answer six questions selected from this list.

Two plans of examination are offered, and applicants are permitted to elect whether they will take the examination according to Plan I or Plan II.

These plans are outlined as follows:

Plan I. The examination is offered in one division. Applicants who elect to take all subjects upon one examination, and who fail in not more than two subjects, are conditioned and permitted to write upon the failing subjects only at the *next examination* during the current examination year. In case of failure in the conditioned subjects. or in case of failure to write upon such subjects at the next examination, the entire examination is a failure. Applicants who fail in more than two subjects fail in the entire examination and can not be conditioned.

Plan II. The examination is offered in two divisions. Applicants who elect to take the examination in two divisions will be permitted to take the first division upon one examination, and if successful, the second division upon the *next examination* during the current examination year. The divisions are as follows:

FIRST DIVISION—
Morning subjects:
Required of all: Arithmetic, Grammar.
Optional subjects: Agriculture, Domestic Science, Industrial Arts.
Afternoon subjects:
Required of all: Literature, History.
Optional subjects: Music, Drawing.

SECOND DIVISION—
Morning subjects:
Required of all: Reading, Physiology.
Afternoon subjects:
Required of all: Geography, Science of Education.

Applicants are required to make passing grades in all subjects of each division, and an applicant who fails in either division, or who fails to write

upon the second division at the *next examination* is a failure in the entire examination. Applicants who take the examination according to *Plan II* can not be conditioned, and such applicants must take both divisions in the same county.

Fees. The fee for the entire examination is 75 cents. Applicants who take the examination according to *Plan I* and who are conditioned are not required to pay a fee to write upon conditioned subjects. Applicants who take the examination according to *Plan II* may take both divisions for one fee. In case of failure in either division, the entire examination is a failure. An applicant who fails is required to pay a fee for another trial.

Manuscripts containing subjects in which applicants were conditioned must bear the same number as the original manuscript. Second division manuscripts prepared in accordance with *Plan II* must bear the same number as the manuscripts in Division I, *Plan II*. The kind of manuscript must be designated on the cover as follows:

Plan I, Conditioned Subjects; Plan II, First Division; or Plan II, Second Division.

Grades of Licenses Issued.

(*1*) *Twelve months:* Valid to teach the subjects covered by the license in the elementary grades of the public schools of any county of the state for a period of twelve months when registered by the county superintendent, except that a twelve months' license issued upon the October examination expires July 31st of the following year. All of the qualifications of Class A and an average of 85 per cent, not falling below 75 per cent in any subject, are required. The holder of a twelve months' license is in Class A.

Note. Certificates of training must be on file in the Department of Public Instruction before a license can be issued.

(*2*) *Twenty-four months:* Valid to teach the subjects covered by the license in the elementary grades of the public schools of any county of the state for a period of twenty-four months when registered by the county superintendent. All the qualifications of Class B and an average of 90 per cent not falling below 80 per cent in any subject, are required. The holder of a twenty-four months' license is in Class B.

Note. Applicants who have not completed the required training for this class receive such licenses as their training entitles them to, unless they request at the time they are examined that their manuscripts be held until they complete their training, and certificates are on file in the Department of Public Instruction.

(*3*) *Thirty-six months:* Valid to teach the subjects covered by the license in the elementary grades of the public schools of any county of the state for a period of thirty-six months when registered by the county superintendent. All the qualifications of Class C and an average of 95 per cent, not falling below 85 per cent in any subject, are required. The holder of a thirty-six months' license is in Class C, or if the holder has had five or more years' successful experience, two of which have been as a Class C teacher, he is in Class D.

Note. Same as note under twenty-four months. Applicants should be careful to state the number of years they have taught and the years during which this teaching was done. By so doing they will relieve the department of any difficulty in determining their classification.

B. Primary.

(*1*) *Twelve months:* Valid to teach the common school branches in grades one, two, three, and four of the public schools of any county of the state for a period of twelve months when registered by the county superintendent. All requirements are the same as for twelve months' common school license, except that in all subjects applicants for primary license will answer any three of the eight common school questions in the subject and in addition the three questions relating to the primary phase of the subject.

(*2*) *Twenty-four months:* Valid to teach the common school subjects in grades one, two, three, and four of the public schools of any county of the state for a period of twenty-four months when registered by the county superintendent. The subjects are the same as in (1) primary. All other requirements are the same as for a twenty-four months' common school license.

(*3*) *Thirty-six months:* Valid to teach the common school branches in grades one, two, three, and four of the public schools of any county in the state for a period of thirty-six months when registered by the county superintendent. The subjects are the same as in (1) primary. All other requirements are the same as for thirty-six months' common school license.

C. High School.

The eligibility requirements are the same as for the common school examination and the fee is 75 cents for each examination.

The subjects are: Literature and Composition, Algebra, Geometry, Commercial Arithmetic, Botany, Zoology, Chemistry, Physics, Physical Geography, Commercial Geography, Physiology, History and Civics, Latin, German, French, Spanish, Bookkeeping, Stenography, Music, Drawing, Agriculture, Industrial Arts, Domestic Science, Science of Education. Applicants may elect the subjects to be taken, but each manuscript must contain Science of Education. A manuscript is considered successful if the applicant receives the required grades and average in a majority of subjects attempted, counting Science of Education, provided, however, before an applicant can be regarded successful he must have a grade of 75 per cent or more in the Science of Education. In all Literature examinations the manuscript is graded from 0-75 on correctness of answers and from 0-25 on the quality of English used.

(*1*) *Twelve months:* Valid to teach the subjects designated in the high schools of any county of the state for a period of twelve months when registered by the county superintendent. The eligibility and grade requirements are the same as for a twelve-months' common school license.

(*2*) *Twenty-four months:* Valid to teach the subjects designated, in the high schools of any county of the state for a period of twenty-four months when registered by the county superintendent. The eligibility and grade requirements are the same as for a twenty-four months' common school license.

(*3*) *Thirty-six months:* Valid to teach the subjects designated, in the high schools of any county of the state for a period of thirty-six months

when registered by the county superintendent. The eligibility and grade requirements are the same as for a thirty-six months' common school license.

D. Supervisor.

Licenses in the subjects designated below are issued for twelve, twenty-four, and thirty-six months. The eligibility, average, classification, and registration requirements are the same as for common school licenses of these grades.

(*1*) *Music:* Valid to supervise and teach music in the public schools of any county of the state for the period designated when registered by the county superintendent. All persons meeting the eligibility requirements for a twelve-months' common school license may take this examination. Applicants who have not had the required professional training may offer in lieu of it the following:

One year in an approved school of music for Class A qualifications.

Two years in an approved school of music for Class B qualifications.

Graduation from a three years' course in an approved school of music for Class C qualifications.

Certified statements of academic and musical training must be filed before license can be issued.

The minimum wage law applies to music supervisors in the same way that it applies to the regular teachers.

(*2*) *Art:* Valid to supervise and teach art in the public schools of any county of the state for the period designated when registered by the county superintendent. All the rules and regulations pertaining to music apply here if for the word music the word art is substituted.

(*3*) *Industrial Arts:* Valid to supervise and teach industrial arts in the public schools of any county of the state for the period designated when registered by the county superintendent. All the rules and regulations pertaining to music apply here if for the word music the words industrial arts are substituted.

(*4*) *Domestic Science:* Valid to supervise and teach domestic science in the public schools of any county of the state for the period designated, when registered by the county superintendent. All the rules and regulations pertaining to music apply here if for the word music the words domestic science are substituted.

(*5*) *Agriculture:* Valid to supervise and teach agriculture in the public schools of any county of the state for the period designated when registered by the county superintendent. All rules and regulations pertaining to music apply here if for the word music the word agriculture is substituted.

(*6*) *Physical Culture:* Valid to supervise and teach physical culture in the public schools of any county of the state for the period designated, when registered by the county superintendent. All the rules and regulations pertaining to music apply here if for the word music the words physical culture are substituted.

E. Kindergarten.

Valid to teach for the period designated in the kindergarten schools of the state that are supported in whole or in part by public funds. The subjects in the examinations are kindergarten theory and practice and English. Applicants who have had training in kindergarten colleges whose courses measure up to the standards fixed by the State Board of Education will be classified according to the requirements for other supervisors, as above indicated. The license will be issued for twelve, twenty-four, and thirty-six months, in accordance with the rules applying to other licenses of these grades, including the requirements as to registration.

F. By Validation.

(*1*) *Life License.* A life license from another state that has been granted upon an examination equivalent to the life license examination in Indiana may be countersigned by the superintendent of public instruction. When so signed, it becomes valid for life in any of the public schools of the state.

(*2*) *State Normal Diplomas.* A State Normal diploma that represents three full years' normal school work, preceded by four years' high school work, may be countersigned by the superintendent of public instruction, provided the holder of it has taught successfuly for two years since graduation. When so signed, it becomes valid for life in any of the public schools of the state.

G. Exemption.

(1) Persons who have taught successfully six consecutive years in the public schools of the state and hold a thirty-six months' state license are entitled to an exemption license in the subject or subjects included in the thirty-six months' state license.

(2) To teachers contracting on exemption licenses, the minimum wage law applies on the same basis as to Class C teachers, the minimum daily wage of such teachers being an amount not less than that determined by multiplying three and one-half cents by the general average on the exemption license increased by the addition of 2 for full attendance at the County Institute.

(3) It is recommended that the county superintendents require the registration of state exemption licenses, when the holders of such licenses desire to contract to teach within the county.

3. Licenses Issued by the County Superintendent.

A. Common School.

(1) Twelve months. (2) Twenty-four months. 3) Thirty-six months.

B. Primary.

(1) Twelve months. (2) Twenty-four months. (3) Thirty-six months.

All rules, regulations and requirements are the same for licenses issued by the county superintendent as for similar licenses issued by the State Superintendent, except that the former are good only in the county of issue, and it is not required that they be registered.

C. Exemption.

Persons who have taught successfully six consecutive years in the public schools of the state and hold a thirty-six months' county license issued prior

o September 1, 1915, are entitled to an exemption license valid in that county in the subject or subjects included in the thirty-six months' license.

Note. A county exemption can not be issued on a thirty-six months' license obtained after September 1, 1915.

4. State Normal Diplomas Valid as Life State Licenses.

The State Normal School is empowered by law to grant, two years after graduation, to all of its graduates who have given satisfactory evidence of professional ability to instruct and manage a school, diplomas which entitled them to teach for life in any of the schools of the state. Until they have had two years' successful experience after graduation State Normal graduates must submit to examination the same as all other teachers.

State Normal Diplomas granted to graduates of the Indiana State Normal School, who have taught successfully two years after graduation, meet all license requirements, except as indicated in (6) and (7) below, and the minimum wage law applies to such graduates as follows:

(1) Holders of State Normal Diplomas, with two years' experience are in Class B, and their daily wage shall not be less than an amount determined by multiplying three cents by 90, provided that 2 shall be added to the 90 for attending the county institute the full number of days.

(2) Holders of State Normal Diplomas with three years' experience are in Class C, and their daily wage shall not be less than an amount determined by multiplying three and one-half cents by 95, provided that 2 shall be added to the 95, for attending the county institute the full number of days.

(3) Holders of State Normal diplomas with five or more years' experience, at least two of which have been taught as Class C teachers, are in Class D and their daily wage shall not be less than an amount determined by multiplying four cents by 95, provided that 2 shall be added to the 95 for attending the county institute the full number of days.

(4) State Normal diplomas meet only the license requirements and teachers holding such diplomas must be classified on the basis of all statutory requirements.

(5) Holders of State Normal diplomas have the privilege of taking the regular teachers' examination to raise the grades used as a basis for determining their minimum wage.

(6) The holder of a diploma from the State Normal school is required to take the examination in pre-vocational subjects in order to be qualified to teach such subjects, unless the holder of the diploma had thirty-six weeks' training in the pre-vocational subject or subjects he desires to teach, as a part of his course in the State Normal School.

(7) It is recommended that the county superintendents require the registration of State Normal diplomas when the holders of such diplomas desire to contract to teach within the county.

5. Temporary Permits.

County superintendents may issue at their discretion, if requested to do so by a school board or township trustee, temporary permits to teach. Such permits may be granted only to applicants who meet the minimum professional training requirements fixed by law and who have not failed in any regular examination during the current examination year preceding the date of application for a permit. A county permit is valid until ten days after the

next teachers' examination following the date of its issuance, and for the purpose of classification a county permit is equivalent to a 12 months' license with an average of 85 per cent.

OTHER EXAMINATIONS.

1. By the State Board of Education.

A. High School Equivalency.

This examination is for the benefit of those who have not had a regular high school course in a certified or commissioned school. The examination is held by the county superintendent but the papers are marked by the state board of education. A fee of fifty cents is charged for the first trial in each division. Students conditioned in high school equivalency subjects may write upon such subjects after the first trial without an additional fee. Success in this examination qualifies for the Normal Training. The questions and requirements are as follows:

First Division.—Last Saturday of January, April, June and August.
Six questions in Algebra.
Six questions in Latin or German.
Six questions in Botany or Zoology.
Fourteen questions in English.
Second Division.—Last Saturday of March, May. July and October.
Eight questions in Geometry.
Six questions in Physics or Chemistry.
Ten questions in General History and Civics.
Six questions in Physical Geography.

B. A passing grade is a general average of 85 per cent with no grade below 75 per cent.

An applicant falling below in no more than one subject in each division may be conditioned in that subject provided he meets the general average requirements in the other subjects of that division. This condition may be removed at some subsequent examination within the same calendar year. Both divisions of this examination must be taken in one calendar year.

NOTES.

1. All the examination questions for licenses and high school equivalency are prepared by the state board of education.

2. All examinations, except those for professional and life state certificates, are held by the county superintendents. These examinations are held on the last Saturday of the following months: January, March, April, May, June, July, August and October. The State Superintendent does not hold examinations and no special examinations are held by county superintendents.

3. Applicants desiring a license good in all counties of the state must send their manuscripts to the Department of Public Instruction to be graded. A fee of seventy-five cents must accompany each manuscript with the exceptions indicated under the requirements for common school license, appearing elsewhere in this bulletin. The fee is required for all licenses issued by the state superintendent; common school, primary, high school, supervisor and kindergarten. An applicant who writes upon more than one supervisor subject must pay seventy-five cents for each subject taken.

4. Manuscripts sent to the state superintendent must be designated by number. A manuscript containing the author's name, or any other means of identification, will not be graded. At the time of the examination the county superintendent should give each applicant a receipt showing the number of his manuscript.

5. No licenses issued by the State Superintendent are delivered to the applicants, but all such licenses are forwarded to the county superintendents in whose respective counties the examinations were taken, and then delivered by the county superintendents to the applicants.

6. All common school, primary, high school, supervisor, and kindergarten state licenses are required by law to be registered by the county superintendent in whose county the holders are to teach. The state board of education also recommends that professional and life state licenses, and State Normal diplomas be registered likewise. County licenses are not transferable from one county to another.

7. At the beginning of each examination all applicants who are strangers must be identified both as to given and surnames.

8. The power to revoke all county and state licenses rests with the county superintendent. The causes for revocation are incompetency, immorality, cruelty, or general neglect of the business of the school.

9. All applicants who have taken their training outside of the state, must send to the State Department certified records of their high school and professional training for the purpose of determining their classification as to Class A, B and C standing, before their licenses can be issued.

10. All supervisors and high school manuscripts must be sent to the state Department for grading according to the law passed in 1915. No county licenses are issued in high school or supervisor subjects.

11. All high school manuscripts must contain Science of Education, and no high school license can be issued without this subject.

12. No fees are required for exemption licenses.

13. No license will be issued by the State Superintendent until the applicant, has a certificate of professional training *on file in the State Department.*

[Acts 1873, p. 68. Approved March 8, 1873.]

26. Pay and Mileage of Board. 156. The members of said board, other than the Governor and state superintendent of public instruction, shall be entitled to receive for their services, while actually engaged in the duties of their office, five dollars per day and five cents per mile necessarily traveled while so engaged; which amount shall be certified by the board to the auditor of the state, who shall draw his warrant therefor, payable out of the general fund, which sum shall be reimbursed to the general fund by the treasurer of the board paying into it that amount out of the money received by him as fees for certificates; and if there be any residue of money received as such fees, it shall be expended by the superintendent of public instruction in the purchase of suitable books for an office library. Said board shall be allowed the necessary expenses incurred in the discharge of the duties required of the same, for clerk hire, postage, etc.; which expenses shall be paid as the expenses of the members of the board are paid. (§6319.)

CHAPTER IV.

County Superintendent.

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[Acts 1913, p. 165.]

27. County Superintendents—Election—Term. 1. The township trustees of each county of this state shall meet at the office of the auditor of their county on the first Monday in June, 1917, at ten o'clock a. m., and every four years thereafter, and elect by ballot a county superintendent for their county. Such county superintendent shall enter upon the duties of his office on August 16th following and unless sooner removed, shall hold his office until his successor is elected and qualified. Before entering upon the duties of his office he shall subscribe and take an oath to perform faithfully such duties according to law; which oath shall be filed with the county auditor. He shall also execute a bond, to the approval of the county auditor, payable to the State of Indiana, in the penal sum of five thousand dollars, conditioned upon the faithful discharge of his duties, according to law, and faithfully to account for and pay over to the proper persons all moneys which may come into his hands by virtue of such office. As soon as such bond is filed, the county auditor shall report the name and postoffice of the person so elected to the State Superintendent of public instruction. Whenever a vacancy may occur in the office of county superintendent the said township trustees, on at least three day's notice given by the county auditor, shall assemble at ten o'clock a. m., on the day designated in such notice at the office of such auditor, and fill such vacancy by ballot for the unexpired term. In all elections of a county superintendent the county auditor shall be the clerk

of such election; and in case of a tie vote the auditor shall cast the deciding vote. In case any one candidate shall receive a number of votes equal to one-half of all the trustees of the county, the county auditor shall then and at all subsequent ballots cast his vote with the trustees until some candidate shall receive a majority of all the votes in the county, including the county auditor. Such auditor shall keep a record of such election in a book kept for that purpose. (§6376.)

1. STATUTE. For the statutes concerning impeachment of officers, see §9648.

2. MEETING OF TRUSTEES. The trustees may be compelled by mandamus to meet and elect a county superintendent, but they can not be compelled to elect a particular person to the office. If they fail to meet on the proper day, they may thereafter meet and elect such officer.—Wampler v. State, 148 Ind. 557; Sacket v. State, 74 Ind. 486. State v. Harrison, 67 Ind. 71, is overruled by Wampler's case.

3. MODE OF ELECTION. The auditor has a right to act as the clerk of the board of election, keep a record of the same, and give the casting vote in case of a tie. The auditor's declaring a person elected does not amount to anything; he has no right to make such declaration. It is the duty of the board of trustees to do that, and until they finally settle the matter a member has a right to vote.—State v. Kilroy, 86 Ind. 118.

4. WOMEN ELIGIBLE. Any woman, married or single, possessing the qualifications prescribed for men, shall be eligible to any office under the general or special school laws of this state. (§6672.)

5. DISPUTED ELECTION. The qualifying of the appointee consists in the execution and acceptance of the required bond, and taking and subscribing the oath of office. A person who has received the certificate of appointment and taken the above action is county superintendent, at least de facto. If the validity of the appointment is disputed, the right to the office may be tested by a writ of quo warranto against one of the claimants.

6. JUDICIAL NOTICE. Courts take judicial notice of the year in which county superintendents are to be elected.—Wampler v. State, 158 Ind. 557.

7. LENGTH OF TERM. A county superintendent, properly elected and qualified, holds his office until his successor is elected and qualified.—State v. Sutton, 99 Ind. 300.

8. RECORD OF ELECTION. The record of a superintendent's election, made by the county auditor, is prima facie correct, and is prima facie evidence of such election. —State v. Sutton, 99 Ind. 300.

9. ELECTION BY BALLOT. In a suit regarding the validity of an election the ballots are the best evidence, but when they have been lost, it is proper for the jury or court to consider the testimony of trustees who cast the ballots, and of those who counted them and announced the result.—State v. Sutton, 99 Ind. 300.

10. ACQUIESCENCE IN ELECTION. Where the trustees agreed that the election should be by ballot, adhered to that mode throughout and at the time the result was announced supposed the result was correctly announced, it was decided by the court that an adjournment without an objection was not an acquiescence in the result, and that such action did not amount to an acquiescence in the result.—State v. Sutton, 99 Ind. 300. Without regard to whether the votes of a majority of all the school trustees are necessary to the valid appointment of a county superintendent, where such trustees recognize the appointment as valid, and the appointee qualifies and enters upon the duties of the office with the acquiescence of all others, he may compel his predecessor to deliver the records of the office to him.—McGee v. State, 103 Ind. 444.

11. MANDAMUS. Mandamus is the proper remedy to compel a superintendent to turn over the records and furniture of the office to his successor.—McGee v. State, 103 Ind. 444.

12. RESIGNATION. Where, without notice of the withdrawal of a resignation previously made, the time arrives for it to take effect, and a successor to the incumbent is duly appointed, no formal acceptance of such resignation is necessary to deprive such incumbent of title to the office.—McGee v. State, 103 Ind. 444.

13. REGULARITY OF APPOINTMENT. One can not contest the regularity of the appointment of a successor, who has become invested with an apparent title, by refusing to surrender the records of the office.—McGee v. State, 103 Ind. 444.

14. Trustees Present and not Voting. There were eight trustees, all there were in the county, present. Four voted for A, and the other four declined to vote. The chairman announced that the vote was a tie, and the auditor then voted for A, and the chairman declared him elected. A qualified and demanded the office. It was decided that he was duly elected; that there was a quorum present; that he received the votes of all those present and voting, which was a majority of the number necessary to constitute a quorum, and that he received the necessary number without the vote of the auditor, who would only be entitled to vote in case of a tie.—State v. Dillon, 125 Ind. 65.

15. Auditor Voting. Township trustees met at the time required by statute; several ineffectual votes were taken, and on the last ballot one-half of the trustees voted for E, and the others voted blanks. A resolution was then offered declaring that E be appointed. The vote on this resolution was evenly divided for and against it. The auditor then gave a casting vote for the resolution and a certificate of election was issued to E. It was held that the election of E was void.—State v. Edwards, 114 Ind. 581. This case, however, has been modified by the decision in the case cited in note 14, and it was overruled in State v. McFarland, 149 Ind. 266, where it was decided that the county auditor is authorized to give the casting vote in case of a tie in all instances, regardless of the method adopted in voting. Now the election must be by ballot.

16. Filing Bond. Mere failure to file the bond within the time required by law does not render the office vacant.—Board v. Johnson, 124 Ind. 145.

The auditor can not refuse to approve the bond on the ground that the superintendent was corruptly elected.—State v. Board, 124 Ind. 554.

17. When May be Removed. Formerly a county superintendent could be removed at a special term of the board of county commissioners.—Fufford v. Conover, 139 Ind. 151. But now he must be removed by impeachment in the circuit court. —§93.

18. Trustee Incompetent. The election of a county superintendent can not be declared illegal on the ground that a trustee, whose vote he received, and which was necessary to his election was incompetent to hold the office of trustee.—State v. Crowe, 150 Ind. 455.

19. Not a Judicial Office. The office of county superintendent is not a judicial office.—Branaman v. Hinkle, 137 Ind. 496.

20. Notice of Meeting. The trustees meet for a regular election by command of the statute, not by virtue of the auditor's call; but it is proper for the auditor to notify them of the time of the meeting. On the occurrence of a vacancy, the auditor notifies the trustees of the fact and fixes the day for them to assemble to fill it.

21. Reconsideration of Election or Vote. If an election results, and is duly declared, the right of the person elected is consummated, and he can not be deprived of his office by the subsequent action of the board.—Mitchener, Atty.-Gen.

22. Recognition by State Superintendent. It is made the duty of the county auditor to report to the superintendent of public instruction the name and address of the person appointed. That is the means provided by law for informing the state superintendent who has been appointed and he has no power to decide upon the validity of an election on information furnished from other sources, evidence aliunde. That is a question for the courts.

23. Disputed Election. The qualifying of the appointee consists in the execution and acceptance of the required bond, and taking and subscribing the oath of office. A person who has received the certificate of appointment and taken the above action is county superintendent at least de facto. If the validity of the appointment is disputed, the issues may be joined by an action to replevin the records and properties of the office or by a writ of quo warranto against one of the claimants.

24. Officer de Jure. When a new superintendent is elected and qualified, all acts of his predecessor are void, which are performed thereafter.—Hord, Atty.-Gen.

25. City and Town Boards. The president of city and town school boards, can not participate in the election of a county superintendent.—Hord, Atty.-Gen.

26. When May Take Oath and File Bond. The newly elected county superintendent may file his bond and take the oath of office as soon as he is elected.

27. A trustee can not vote for himself for superintendent.—Hornung v. State, 116 Ind. 458, 19 N. E. 151.

28. If township trustees fail to elect a county superintendent of schools on the day fixed by law, they should meet on a subsequent day and elect such officer.—State v. Scott, 171 Ind. 349, 86 N. E. 409.

Note. State Normal diplomas issued by the State Normal School are not sufficient to establish the qualification of a person to hold the office of County Superintendent of Schools.—State v. Bradt, 170 Ind. 480.

[Acts 1899, p. 240.]

28. Impeachment. Any county superintendent may be impeached for immorality, incompetency or general neglect of duty, or for acting as agent for the sale of any text-book, school furniture, maps, charts or other school supplies, and such impeachment proceedings shall in all things be governed by the provisions of law now in force for impeaching county officers. (§6377.)

[Acts 1911, p. 156.]

29. County Superintendent—Qualifications. 1. That no person shall be eligible to or shall hold the office of county superintendent, who has not been actively engaged in school work for a period of not less than two years out of the ten years next preceding his election, and hold at the time of his election, either three years' state license, a sixty months' license, a life or professional license, granted upon examination as now provided by law. (§6378.)

1. The law providing for the issuing of a sixty months' license was rejected by Acts 1915, p. 627.

[Acts 1911, p. 156.]

30. Salary in the Several Counties. 2. The county superintendent shall receive a salary for his services as follows: Adams County, $1,408.50; Allen County, $1,408.50; Bartholomew County, $1,408.50; Benton County, $1,408.50; Blackford County, $1,408.50; Boone County, $1,408.50; Brown County, $900.00; Carroll County, $1,400.00; Cass County, $1,408.50; Clark County, $1,408.50; Clay County, $1,408.50; Clinton County, $1,408.50; Crawford County, $1,400.00; Daviess County, $1,408.50; Dearborn County, $1,408.50; Decatur County, $1,408.50; Dekalb County, $1,408.50; Delaware County, $1,408.50; Dubois County, $1,408.50; Elkhart County, $1,408.50; Fayette County, $1,408.50; Floyd County, $1,408.50; Fountain County, $1,408.50; Franklin County, $1,408.50; Fulton County, $1,408.50; Gibson County, $1,408.50; Grant County, $1,408.50; Greene County, $1,408.50; Hamilton County, $1,408.50; Hancock County, $1,408.50; Harrison County, $1,408.50; Hendricks County, $1,408.50; Henry County, $1,408.50; Howard County, $1,408.50; Huntington County, $1,408.50; Jackson County, $1,408.50; Jasper County, $1,408.50; Jay County, $1,408.50; Jefferson County, $1,408.50; Jennings County, $1,408.50; Johnson County, $1,408.50; Knox County, $1,408.50; Kosciusko County, $1,408.50; Lagrange County, $1,408.50; Lake County, $1,408.50; Laporte County, $1,408.50; Lawrence County, $1,408.50; Madison County, $1,408.50; Marion County, $1,408.50; Marshall County, $1,408.50; Martin County, $1,408.50; Miami County, $1,408.50; Monroe County, $1,408.50; Montgomery County, $1,408.50; Morgan County, $1,408.50; Newton County, $1,408.50; Noble County, $1,408.50; Ohio County,

$800.00; Orange County, $1,408.50; Owen County, $1,408.50; Parke County, $1,408.50; Perry County, $1,408.50; Pike County, $1,408.50; Porter County, $1,408.50; Posey County, $1,408.50; Pulaski County, $1,408.50; Putnam County, $1,408.50; Randolph County, $1,408.50; Ripley County, $1,408.50; Rush County, $1,408.50; Scott County, $1,000.00; Shelby County, $1,408.50; Spencer County, $1,408.50; Starke County, $1,408.50; Steuben County, $1,408.50; St. Joseph County, $1,408.50; Sullivan County, $1,408.50; Switzerland County, $1,400.00; Tippecanoe County, $1,408.50; Tipton County, $1,408.50; Union County, $1,325,00; Vanderburgh County, $1,408.50; Vigo County, $1,408.50; Vermillion County, $1,408.50; Wabash County, $1,408.50; Warren County, $1,408.50; Warrick County, $1,408.50; Washington County, $1,408.50; Wayne County, $1,408.50; Wells County, $1,408.50; White County, $1,408.50; Whitley County, $1,408.50. (§6400.)

[Acts 1913, p. 77.]

31. Additional Salary. 1. That in counties containing more than seventy-seven thousand inhabitants, according to the last preceding United States census, the board of county commissioners of each of such counties shall be, and hereby is, authorized, upon the petition of fifty resident freeholders of such county to allow an addition to the salary of the county superintendent of schools therein, such as in the judgment of such board the conditions in such county and the work required of such superintendent therein may justify, not exceeding one thousand dollars a year payable to such county superintendent of schools in monthly instalments out of the treasury of the county. (§6400a.)

[Acts 1911, p. 156.]

32. Traveling Expenses. 3. The traveling expenses of the county superintendent, not exceeding one hundred dollars ($100) annually, incurred while in the discharge of his official duties within his county shall be paid by the county treasurer upon a warrant issued by the county auditor. The county superintendent shall make affidavit to the county auditor, before such warrant shall issue from the county auditor to the county treasurer. (§6400b.)

33. Assistant—Appointment. 4. The board of county commissioners may authorize the county superintendent to appoint an assistant to assist him in the execution of his official duties if in their judgment such an assistant is necessary. Such assistant shall be appointed by the county superintendent and shall work under his direction and supervision. Such assistant shall receive for his services rendered, an amount not to exceed three dollars per day for not to exceed one hundred and twenty days in any one year. Such amount to be paid by the county treasurer upon warrant issued by the county auditor. (§6400c.)

[Acts 1889, p. 240. Approved March 3, 1899.]

34. General Duties. 4. The county superintendent shall have the general superintendence of the schools of his county, he shall attend each township institute at least once in each school year, and as often thereafter as possible, and preside over and conduct its exercises. He shall visit schools while they are in session for the purpose of increasing their usefulness and

elevating, as far as practicable, the poorer schools to the standard of the best. He shall conduct teachers' institutes and encourage other like associations, and shall labor, in every practicable way, to elevate the standard of teaching and to improve the condition of the schools of his county. In all controversies of a general nature arising under the school law, the decision of the county superintendent shall first be obtained; and then an appeal, except on local questions relating to the legality of school meetings, establishment of schools, and the location, building, repair or removal of schoolhouses, or transfer of persons for school purposes and resignation and dismissal of teachers, may be taken from his decision to the state superintendent of public instruction on a written statement of facts, certified to by such county superintendent. Nothing in this act, however, shall be construed so as to change or abridge the jurisdiction of any court in cases arising under the school laws of this state; and the right of any person to bring suit in any court in any case arising under the school laws shall not be abridged by the provisions of this act. He shall at all times carry out the orders and instructions of the state board of education and the state superintendent of public instruction, and shall constitute the medium between such state superintendent and subordinate schools officers and the schools. (§6379.)

1. Care and Oversight. The superintendent has the care and oversight of the schools of his county, with authority to direct in their organization and management.

2. Power as to Course of Study and Rules. The management and control of the schools is conferred by law upon the trustees, and this power involves the right to prescribe a course of study and make rules and regulations. But the trustees also appoint a county superintendent, who, in a large department of school government, is the representative and agent of the trustees, and to him their powers are delegated so far as is necessary to successful administration. If neither the county board of education nor the trustees individually have taken the necessary action, the superintendent may arrange a course of study and direct its enforcement in the schools, and may make reasonable rules and regulations, and the refusal of a teacher to obey the superintendent in these particulars would be such "neglect of the business of the school" as would warrant a revocation of his license, or would indicate such incompetence "to successfully teach" as would warrant a refusal to grant him another license.

3. Liability. A county superintendent is not liable for his official acts, unless they were wanton and malicious, where he has a discretion in their performance.—Branaman v. Hinkle, 137 Ind. 496; Elmore v. Overton, 104 Ind. 548.

35. Cities Exempt. 5. City schools, however, having duly appointed superintendents, shall be exempt from the general superintendence authorized by this act, upon a written request of the school board of said cities that such supervision be not extended to such cities by the county superintendent. (§6386.)

[Acts 1903, p. 291.]

36. Visits by City and County Superintendents. 2. It shall be the duty of the city, town and county superintendents of schools to visit each year the teachers under their charge and supervision, and from personal inspection and otherwise make an itemized statement and grading of the success of each teacher under their charge, and in accordance with the rules and schedule of the state superintendent of public instruction, as provided in section 1 of this act. (§6380.)

37. Examinations for Graduation. 6. The county superintendent shall provide for the examination of all applicants for graduation in the common school branches from township, district or town schools during the months of March, April and May, and furnish them certificates of graduation, if in the judgment of the county superintendent they are entitled thereto, which shall entitle the recipients to enter any township, town or city high school of the state if he be otherwise entitled to the privileges thereto.

He shall likewise provide for the examination of all applicants for graduation from the township graded or town graded high schools not employing a superintendent during the months of April, May and June and furnish them certificates of graduation, if entitled thereto. He shall attend as many commencements as he can of the township and town schools, and also of the township and town high schools. He shall hold one preliminary institute in each township in his county before the schools for that school year open, for the purpose of helping the teachers in the organization of their schools and giving any other needed assistance, but instead of holding such preliminary institutes in each township, he may hold a joint institute for two or more adjoining school corporations. (§6387.)

1. A common school graduate is entitled to high school privileges, including a high school transfer if there be no high school maintained in his own school corporation.

[Acts 1915, p. 627.]

38. Schools—Examination for Teacher's License. 1. That the county superintendent shall hold one public examination on the last Saturday of January, March, April, May, June, July, August and October of each year, and at such examinations, shall examine by a series of questions furnished by the state board of education. all applicants for license as teachers in the common schools of the state and that no special examinations shall be held. No examination shall extend over a period of more than two days, and all examinations shall be conducted in the immediate presence of the county superintendent or his representative, pursuant to such institutions (instructions) and directions as the state board of education may provide. Before any applicant may be examined he shall produce to the county superintendent a certificate of good moral character from a school trustee of the county then in office, or other satisfactory written evidence of good moral character, which certificate or other evidence shall be marked "filed" on that date by such county superintendent and preserved as an office paper. All applicants for license in high school subjects and special branches, as hereinafter provided shall have their manuscripts sent to the state superintendent of public instruction for gradation. All applicants for license in elementary school subjects, as hereinafter provided shall have the right to elect whether they will have their manuscripts graded by the county superintendent for county license or graded by the state superintendent of public instruction for state license. Applicants for county license, shall if successful, receive license which shall be taken as qualifying the person to whom granted, so long as in force, to teach the subject or subjects indicated by the license in the elementary schools of the county wherein it is issued, and applicants for state license shall, if successful receive license which shall be taken as qualifying the person to whom granted so long as in force, to teach the subject or subjects indicated by the license anywhere within the state: *Provided, how-*

e er, A state license must be registered with the county superintendent of the c unty wherein it is to be used and endorsed by said superintendent as regis- t red before the holder may legally contract to teach in any school corpora- t on in the county. Applicants who send their manuscripts to the state s perintendent of public instruction for gradation, shall before the examina- t on begins pay to the county superintendent a fee of seventy-five cents (75c) f r each manuscript to be sent. The county superintendent shall issue his r ceipt for all fees paid under the provisions of this act, and shall immediately s nd such fees, together with the manuscripts, to the state superintendent f public instruction, who shall issue his receipt therefor to the county super- i ntendent. The state superintendent of public instruction shall use such f nds in the employment of a sufficient number of qualified persons to grade t he manuscripts and perform the services incident to the operation of the l cense system instituted by this act. All manuscripts sent to the state s perintendent of public instruction shall be designated by number, and the t state superintendent of public instruction shall refuse to receive any manu- s cript bearing the name of the applicant, or any other means of identification of t he applicant. As soon as the manuscripts are graded and their success or fail- u re determined, according to the requirements hereinafter provided, the state s perintendent of public instruction shall report the success or failure of the m anuscripts by number to the county superintendent, whereupon the county s uperintendent, shall immediately forward to the state superintendent of p ublic instruction the names of the successful applicants in his county to- g ether with their success grades and any other data required by the state s uperintendent of public instruction for the purpose of issuing the license.

1. APPEAL. If an applicant for a license is not satisfied with the grading of his county superintendent he may appeal to the superintendent of public instruction; and if, on the other hand, any patron of a school thinks that a teacher thereof has been too literally graded, the same right of appeal exists in such patron as in the applicant for a license.

2. INCOMPETENT TEACHER. A county superintendent may refuse to license a teacher whom he knows to be incompetent to teach. There are two ways that such knowledge may come to him: 1. From personal visitation and inspection of his school work. 2. From statements made by those in a position to inspect such work.

3. POWERS OF SUPERINTENDENT NOT JUDICIAL—LIABILITY. The county superintendent belongs to the executive department of the government; he acts in neither a judicial nor quasi-judicial capacity in licensing persons to teach, and he has a discretion on the subject of licensing teachers, which is so far analogous to judicial discretion that he is protected from any claim for damages on account of any mistake in his decisions, or error in judgment, either in granting or withholding a license. Yet he is liable in damages for maliciously withholding a license to teach from an applicant lawfully entitled to receive the same, and he will be held to have acted maliciously where he acts either from wilful and wicked or from corrupt motives.—Elmore v. Overton, 104 Ind. 548.

4. LICENSE AND CERTIFICATE. There is no legal distinction between the granting of a license to teach and the act of issuing a certificate of that fact. The terms are convertible, and the "licensing" implies the issuing to an applicant of a written permission to teach in the public schools.—Elmore v. Overton, 104 Ind. 548.

5. Inasmuch as the law requires that a beginning teacher must possess a twelve month's license the provision concerning six months' licenses has become obsolete.

6. DISCRETION. Reasonable discretion of the county superintendent can not be controlled by the courts.

7. MANDAMUS. Mandamus will not lie to compel the issuance of a teacher's certificate by the county superintendent; the superintendent being vested with a dis-

cretionary power, the court may compel him to act upon an application, but can not control his discretion. The mode of procedure in such case is an appeal to the superintendent of public instruction, and if after hearing the case he orders the county superintendent to issue a certificate, mandamus would lie to compel him to do so.

8. Ministerial Duty. Mandamus is the proper action to compel an officer to perform any ministerial duty, but mandamus will not lie to compel the performance of any discretionary duty.

9. Liability. If a county superintendent make an honest mistake in his judgment as to his duties under the law, or as to facts submitted to him, where he has a discretion, it will not render him liable for damages.—Branaman v. Hinkle, 137 Ind. 496; Elmore v. Overton, 104 Ind. 548.

10. Music. Notwithstanding this section does not require an applicant for a license to be examined in music, yet the school trustee may require music to be taught in the schools.—Myers Publishing Co. v. White River School Township, 28. App. 91; 62 N. E. 66.

11. Loss of Certificate, etc. The certificate is only the evidence of a license. It follows that if a teacher loses his certificate he remains licensed, and should be so treated, provided he can prove the facts. In such case a duplicate certificate may be issued from the superintendent's record. The failure of an applicant upon examination does not affect a license previously issued to such applicant, or afford ground for its revocation.

12. Illegal Issues of Licenses. If a new superintendent finds that licenses have been illegally issued by his predecessor, he should cancel the records and certificates thereof, and notify the school trustees in the county of such action. Before taking this action he should carefully investigate the facts, and notify the parties interested, giving them an apportunity to show that their licenses are valid.

13. Special teachers do not need general licenses, but must be licensed in the subjects they teach.

14. Additional Branches. Ordinarily, an examination in the enumerated subjects is sufficient, but when a person is to teach other branches, his proficiency therein should not be left to conjecture. He should be examined by the county superintendent in such "other branches" as he is expected to teach. This is expressly stated in the law in case a district school meeting has designated additional branches, and is an obvious inference in all cases where additional branches are to be taught.

15. Principal and High School Teachers in Town and City Schools. I think the spirit of the law is fully complied with when high school teachers pass examination in such branches and only such as they are required to teach. If an applicant is to teach say Latin, geometry, general history and physics, I see no good reason for requiring him to pass on the "eight common school branches." The intention of the law clearly is that a teacher's fitness to teach should be based on a knowledge of the branches he may be required to teach.

16. Teaching Without License. Persons can not be employed or permitted to teach in the common school unless they hold a license of some grade issued in pursuance of law.—State v. Bradt, 170 Ind. 480.

[Acts 1915, p. 629.]

39. Examination Studies. 2. Applicants for license to teach in the elementary schools shall be examined in orthography, reading, writing, arithmetic, geography, English Grammar, physiology and scientific temperance, United States history, literature, and the science of education, and in such additional branches as they are or may hereafter be legally required to teach. The examination for license in the above named subjects may be divided according to such plan as may be devised by the state board of education, so that applicants may take one division on one examination, and if successful upon the first division, the second division at the next examination, *Provided, however*, That any applicant for such license shall have the right to take both divisions at the same examination.

One fee shall be sufficient for both divisions, provided the applicant does not fail in either division. Applicants for license in high school subjects shall be examined in as many subjects as they desire to take from the list of subjects offered by the state board of education, *Provided, however*, All applicants shall be examined in the science of education. Applicant's for supervisor's and special teacher's license in agriculture, industrial arts, domestic science, kindergarten, music, drawing, physical culture, or other special branches required to be taught shall be examined in such subjects as they elect from the foregoing list or such additional special branches as may be provided.

40. State Board of Education—Fixing Averages. 3. The state board of education shall determine the grades and averages required for issuing licenses, and whenever an applicant shall be found upon examination to possess knowledge sufficient in the judgment of the county superintendent or state superintendent to entitle him to a license in the subject or subjects in which he is examined, he shall be issued a county license or a state license for twelve months, twenty-four months, or thirty-six months, according to the requirements established: *Provided*, That licenses issued upon the October examination for less than twenty-four months, shall expire July 31 of the year following the examination; *and Provided further*, That any applicant for license in elementary subjects who fails in only two subjects shall be conditioned and allowed to write upon such subjects at the next regular examination during the current year. The general average of the branches shall indicate the applicant's academic standing, which shall be the basis of issuing a license to a teacher without experience. The general average of the branches and the per cent placed upon the applicant's school room success shall count one-half in determining the average of a teacher who is entitled to a success grade: *Provided, however*, That the success grade last issued shall be taken as the legal success grade.

41. Temporary Teaching Permits. 4. County superintendents are hereby authorized to issue at their discretion temporary county permits to teach, dated to expire on the date of the next succeeding general examination: *Provided*, That such permit shall not be issued unless the applicant has met the minimum professional training requirements fixed by law, as shown by the proper certificate: *Provided, further*, That such permit shall not be issued to any one who has failed on any regular examination during the examination year preceding the date of application; *and Provided further*, That such permits may be issued only upon request of school boards or township trustee to teachers employed by them. County permits issued upon the above named conditions shall be accepted as legal qualifications to teach; for the purpose of classifying teachers, a county permit shall be equivalent to a twelve month's license with an average of 85 per cent.

42. Professional License—Eight Year Term. 5. Any person now possessing a thirty-six months' license, whose next consecutive license shall be for a term of thirty-six months, or any person who shall hereafter receive two licenses in succession each for thirty-six months, may receive upon the

expiration of such several licenses, a license for the term of eight years upon examination held by the state board of education. Such license shall be issued only upon the approval of the state board of education, and shall be styled a professional license, and shall entitle the holder to teach in any of the schools of this state.

43. Exemption from Examination. 6. Any person who has previously taught for six (6) consecutive years in the common schools of the state, or who shall hereafter complete six (6) consecutive years of experience in such schools, and who shall at this time hold a thirty-six months' license to teach in the elementary or high schools of the state, or who shall hereafter obtain such thirty-six months' license to teach therein, so long as he shall teach the branch or branches upon which the license was issued, shall be forever afterward exempt from examination, but if such person shall, after said exemption occurs, suffer a period of one year to pass without having taught one full school year in the common schools of the state within said period or served in said schools, except in case of physical disability, properly certified to by a reputable physician, or except in case of attending for a full school year a recognized university, college or normal school, then said exemption shall cease. If said person during such exemption, shall seek employment to teach other or higher branches in the common schools of the state than those branches which were included in the examination upon which the thirty-six months' license was issued, then he shall be examined in such additional branches. The exemption shall apply to all thirty-six months' county licenses issued prior to September 1, 1915, and expiring thereafter, and to all thirty-six months' state licenses: *Provided*, That an exemption acquired upon a license issued by a county superintendent shall be limited to the county in which such license was issued. An applicant for a state exemption shall present a certified statement from a county superintendent showing where and when such teacher has taught, and the license upon which the request for exemption is based. If the exemption is granted, the superintendent of public instruction shall attach the exemption to the orginal license.

44. Previous Exemptions in Force. 7. All exemptions heretofore acquired shall remain in full force so long as the holders thereof shall comply with the terms of section 6 of this act.

45. Grade of Success—Who Determines. 9. The county superintendent shall determine the grade of success of teachers employed in the township schools, and the superintendents of incorporated school cities and school towns shall determine the grade of success of teachers employed in such corporation. For the purpose of determining such success grades, city, town, and county superintendents are required to visit each year the teachers under their charge and supervision and make personal inspection of the work of such teachers, and each school superintendent shall issue over his signature and deliver to each teacher under his supervision, not later than July 1, each year such statement of the success of each as is contemplated herein, and shall keep on file in a permanent record book, duplicate of all such statements, also, city and town superintendents shall file with the county superintendent duplicates of all success grades within ten days after their date of

issuance. A teacher's success grade so issued shall be his legal success grade for one year from the date of its issuance.

SCHEDULE OF SUCCESS ITEMS.

THE TEACHER.....100 %

A. Teaching Power..... 45 %

Many items enter into this, but the principal ones are preparation of lesson, skill in presentation, and results attained.

B. Government..... 35 %

The teacher's power in government is shown in the general spirit of the school, and in the attitude the pupils take toward their daily tasks, toward each other and toward the school property.

C. General Characteristics..... 20 %

Under this head the personality of the teacher, his professional and community interest, and all those qualities that make for the best citizenship should be considered.

The city and town superintendents should hand the success grades to their teachers not later than July 1st, each year, and forward copies of the same to the county superintendents, who will keep the official success records for the counties. The success grades of all teachers employed by township trustees are issued by the county superintendent.

1. Appeal. On appeal, all papers must be filed with the county superintendent, and by him be sent to the state superintendent of public instruction.

46. Unfair Grading. 10. The state superintendent of public instruction is hereby authorized to investigate and revise such cases of unfair grading in the items of a teacher's success, as may be brought to his attention in a written appeal, make [made] and sworn to before any person authorized to administer oaths, not later than thirty days after the issuance of said grade. All such sworn statements and papers relating to the case shall be filed with the county superintendent of schools, and shall by him be forwarded to the state superintendent of public instruction within ten days after the filing of such appeals.

47. Records of County Superintendent. 11. The county superintendent shall keep a record of minutes of his proceedings, and shall deliver such record, and all other books, papers, and property appertaining to his office to his successor. He shall also keep a record of all applicants for license and the kind and length of the license issued to each successful applicant, as well as the names of the teachers whose licenses he revokes. He shall report to the state superintendent of public instruction the names of those whose licenses he revokes and the date of such revocation.

48. Report of State Superintendent. 12. The state superintendent of public instruction shall keep a complete record of all fees and manuscripts received by him, and also, a record of all licenses issued by him, showing the name of the person to whom issued and for how long, and the grades received by the applicant. He shall make an annual report under oath to the governor, giving an itemized statement of the receipts and disbursements of moneys contemplated by this act, stating for what paid and to whom paid, and he shall take receipts for all expenditures, which receipts shall be kept on file.

49. Fees on Hand—State Treasury. 13. On December 31st of each year, if the state superintendent of public instruction shall have on hand any balance after all expenses incurred in performing the services contemplated in this act have been paid, as hereinbefore provided, he shall pay said balance to the treasurer of state, who shall credit same to the state common school tuition fund.

50. Act Effective. 14. The provisions of this act shall become effective September 1, 1915, but nothing in this act shall effect the validity of any license granted prior to the above date.

51. May Revoke License. 9. The county superintendent shall have the power to revoke licenses heretofore granted by himself or predecessors or hereafter granted by the state superintendent of public instruction, for incompetency, immorality, cruelty or general neglect by the holder of the business of his school. Due notice of such revocation shall be given in writing by the county superintendent and an appeal therefrom shall lie to the state superintendent of public instruction, and if the same be taken within five days after notice is given it shall operate as a stay of proceedings until the state superintendent of public instruction shall have passed upon such appeal. The revocation of the license of any teacher shall terminate his employment in the school in which he may have been employed to teach. (§6393.)

1. LICENSES NOT CONTRACTS. Licenses issued to teach school are not contracts, and may be revoked for causes specified by law.

2. REVOCATION OF LICENSES. If the license of a school teacher is revoked, such teacher may apply to the courts for relief when it is claimed that such revocation is illegal; the remedy for the illegal revocation of a license is by an appeal from the decision of the superintendent and not by injunction.—Stone v. Fritts, 169 Ind. 361.

52. Office—Supplies. 11. The board of county commissioners shall provide and furnish an office for the county superintendent of the county, allow and pay all costs incurred by him for postage, stationery and records in carrying out the provisions of this act, upon his making to them satisfactory proof thereof. (§6395.)

[Acts 1905, p. 584. Approved March 10, 1905.]

53. Traffic in Examination Questions. 533. Whoever shall trade, sell, barter or give away, or offer to sell, trade, barter or give away to applicants for teachers' license, or to any other person; or whoever shall buy, purchase, barter, or trade for, or accept, any of the questions [prepared] by the state board of education, to be used by county school superintendents in the examination of teachers, [or] in any way dispose of or accept any of such questions, contrary to the rules prescribed by said state board of education, shall, on conviction, be fined not less than fifty dollars nor more than five hundred dollars. (§2439.)

[Acts 1899, p. 488. Approved March 6, 1899.]

[Acts 1865, p. 3. Approved March 6, 1865.]

54. When must Enumerate. 40. When any trustee shall neglect to file with the county superintendent an enumeration of the children of the township, town or city, as required by section 118, the county superintendent

shall, immediately after the first day of May in each year, employ a competent person to take the same, and allow a reasonable compensation for such services, payable from the special school revenue of the township; and shall proceed to recover the same in the name of the State of Indiana, for the use of said revenue of said township, by action against the said trustee in his individual capacity; and in such suit the county superintendent shall be a competent witness. (As amended 1873, §6397.)

1. In so far as the provisions of the above section affect the trustee, they are penal and apply only where he has failed to file any report, and they have no application when a report in proper form, duly verified, has been filed.—Young v. State, 138 Ind. 206.

55. **Annual Reports.** 41. The county superintendent shall, on or before the fifteenth day of May, annually make out and forward to the state superintendent the enumeration of their respective counties, with the same particular discrimination required of the trustees. When, however, the state superintendent of public instruction, upon examination of the enumeration returns of any county, or of any township, town or city of such county, finds any evidence that the enumeration is excessive in numbers, or otherwise incorrect, he may require the county superintendent to cause the enumeration of such county, township, town or city to be retaken and returned according to the provisions of this act, and the school revenue to be distributed to said county upon such corrected enumeration. If, however, the corrected enumeration is received by the state superintendent of public instruction too late for the semi-annual apportionment, the state superintendent of public instruction shall make the apportionment on the last accepted enumeration. They shall, on or before the fifteenth day of October, annually furnish the statistical information which trustees are required to report to them in such form as may be prescribed by the superintendent of public instruction. They shall also furnish with such statistical report such additional information, embodied in a written report, relative to the condition of schools, school houses, and the general progress of education, etc., in the county, as the state superintendent may from time to time call for. On failure of any county superintendent to make his report of enumeration by the fifteenth day of May, his county shall be subject to a diminution of twenty-five dollars ($25) in the next apportionment of school revenue by the state superintendent, and on failure to make his statistical and other reports by the fifteenth day of October, his county shall be subject to a diminution of ten dollars ($10) in the next apportionment likewise. The sum thus withheld may be collected from said county superintendent, on his bond, in a suit before a justice of the peace, prosecuted in the name of the state, by any person living in said county who has children enumerated for school purposes for the current year, who is aggrieved by said diminution. Said suit may be commenced within two years from the time when said report is due, and not afterward: *Provided*, That said county superintendent may discharge himself from liability to such suit by a certificate of the postmaster that said report was mailed in due time, together with his own affidavit of that fact. (As amended 1895, p. 197: §6398.)

1. PRIVATE INSTITUTIONS. County superintendent are expected to furnish statistical and other reports relative to private schools, high schools, colleges, and other

private institutions of learning within their respective counties, so as to enable the superintendent of public instruction to present a view of all the educational facilities of the state.

2. MANDATE. Mandamus lies to compel the county superintendent to make the report required by the above section, and the trustees of a township affected may bring the action for such a mandamus.—Young v. State, 138 Ind. 206.

56. Apportionment—Report. 42. The county superintendent shall make out, from the lists of enumeration and the report of transfers, the basis of the apportionment of school revenue to the several townships, towns and cities of their respective counties, and parts of congressional township of adjoining counties whose congressional township fund is managed in their counties, and report the same to the proper county auditors by the first day of June, annually, so as to enable county auditors to accurately apportion the school revenue for tuition. (§6399.)

1. CONGRESSIONAL TOWNSHIPS. The basis of apportionment should show, by number and range, the congressional townships, or parts of congressional townships, which form each civil township, the number of children enumerated in each of such parts; also the whole number of children enumerated in each civil township. With the basis of apportionment he should file with the auditor a separate statement showing what congressional townships whose funds are managed in his county are divided by the county line; also, the number of children enumerated in each part of such townships.

[Acts 1873, p. 75. Approved March 8, 1873.]

57. Duty as to School Fund. 7. The official dockets, records and books of account of the clerks of the courts, county auditor, county commissioners, justices of the peace, prosecuting attorneys, mayors of cities, and township and school trustees, shall be open at all times to the inspection of the county superintendent; and whenever he shall find that any of said officers have neglected or refused to collect and pay over interest, fines, forfeitures, licenses, or other claims, due the school funds and revenues of the state, or have misapplied the school funds and revenues in their possession, he shall be required to institute suit in the name of the State of Indiana for the recovery of the same, for the benefit of the school funds or revenues and make report of the same to the board of county commissioners and to the state superintendent. (§6402.)

1. SUIT AGAINST TOWNSHIP TRUSTEE. A county superintendent may bring an action against a defaulting township trustee; but his right to bring such an action does not prohibit the successor of such trustee suing his predecessor.—Nichols v. State, 65 Ind. 512.

2. See Carr v. State, 81 Ind. 342, concerning the power of county superintendents to bring suit.

3. ENJOINING PAYMENT. County superintendents cannot enjoin school trustees from unlawfully paying out school funds.—McGreggor v. State, 31 App. 483.

[Acts 1875, p. 131. In force March 9, 1875.]

58. Duty as to Interest and Loss, School Fund. 6. Such superintendent shall see that the full amount of interest on school fund is paid and apportioned, and, when there is a deficit of interest of any school fund, or loss of any school fund or revenue by the county, that proper warrants be issued for the re-imbursement of the same; but no per centum beyond what is provided for herein and allowed shall in any case be paid him by said board of commissioners. (§6401.)

[Acts 1865, p. 3. Approved March 6, 1865.]

59. Appeals from Township Trustees. 164. Appeals shall be allowed from decisions of the [township] trustees, relative to school matters, to the county superintendents, who shall receive and promptly determine the same, according to the rules which govern appeals from justices of the peace to circuit courts, so far as such rules are applicable; and their decisions of all local questions relating to the legality of school meetings, establishment of schools, and the location, building, repair, or removal of school houses or transfer of persons for school purposes, and resignation and dismissal of teachers, shall be final. (§6667.)

1. TRIAL OF APPEALS. When the county superintendent has received a complete transcript of the case in controversy, he should fix a day for the trial, and all parties to the case should be notified of the subject-matter and the time and place of the trial. The case should then be tried de novo. No case should be decided by the superintendent from the transcript alone, without first giving all parties an opportunity to be heard. If after sufficient notice either appellee or appellant fails to appear, then, and only then, should the case be decided from the transcript. Upon appeal, the case is tried de novo upon its merits.

2. SUPERINTENDENT'S DECISION FINAL. The superintendent's decision prohibiting the erection of a school house on a location selected by the trustee is within his jurisdiction, and is final and binding on the trustee.—Knight v. Woods, 129 Ind. 101. See Carnahan v. State, 155 Ind. 156.

3. REFUSAL TO DECIDE. A refusal of a trustee to decide a question presented properly to him will not prevent an appeal being taken from him; for his refusal is a decision against the person who made the request for a decision.—O'Brien v. Moss, 131 Ind. 99.

4. TRANSFER. An appeal lies from a refusal of a trustee to make a transfer of a pupil.—Edwards v. State, 143 Ind. 84.

5. LOCATION OF SCHOOL HOUSE. An appeal lies from the trustee concerning the location of a school house.—Kessler v. State, 146 Ind. 221; State v. Schmetzer, 156 Ind. 528. So of a joint school house.—Henricks v. State, 151 Ind. 454.

6. The remedy for the refusal of a township trustee to establish a school is by an appeal to the county superintendent, and not by a writ of mandate.—Nelson v. State, 138 Ind. 491, 81 N. E. Rep. 486.

7. The decision of a county superintendent on an appeal from a township trustee on the question of location and building school houses, is conclusive as to all persons and officers.—Advisory Board v. State, 170 Ind. 439, 85 N. E. Rep. 18.

60. Appeals from County Superintendent. 165. Appeals shall be allowed from the decisions of county superintendents to the superintendent of public instruction on all matters not otherwise provided for in the next preceding section; and the rules that govern appeals from justices of the peace to circuit courts as to the time of taking an appeal, giving bonds, etc., shall be applicable in appeals from county superintendents to the superintendent of public instruction. (§6668.)

1. PROCEDURE. The same rules in regard to the time allowed for taking an appeal and for making transcript, etc., apply in case of appeals to the state superintendent as to the county superintendent. The county superintendent should make a transcript of the record, and send it, together with all papers in the case, to the state superintendent, with his certificate indorsed thereon. He must specifically certify to the facts (for example, that A B applied for a certificate on a certain day, that upon examination a license was refused on certain grounds, that the inclosed papers are those made by the applicant, upon which he was rejected. A copy of the questions used and the appeal bond should also be sent. In case a refusal to license is based upon the county superintendent's personal knowledge, he should make a statement of the facts, verified by affidavit, and forward it, together with corroborative testimony, and the testimony

given in favor of the accused. If an appeal is taken in due form, the state superintendent may require the county superintendent to forward the papers to him, and upon refusal, may visit the county and make an examination into the facts of the case, and render a decision that will be binding on all parties interested.

2. Trial by State Superintendent. The appeal is tried by the superintendent of public instruction upon the papers sent up. Additional affidavits may be filed with him and witnesses examined. Parties may appear before him, and a complete trial be had, the same as before the county superintendent. An applicant for a license, who desires to appeal, should be allowed thirty days from the time the county superintendent's decision is rendered, not from the time of examination. If the license is denied because of immorality, the county superintendent should specify in what particular the immorality consists. On appeal the superintendent of public instruction can not grant a license; he can only order the county superintendent to grant one. Should the latter refuse to grant it, a mandamus at the instance of the teacher, would lie to compel him to obey the direction of the state superintendent. If an appeal is taken and the county superintendent refuses to send up the papers, a mandamus will lie to compel him to send them. Or the superintendent of public instruction can visit the county and try the case there. Merely writing a letter to the superintendent of public instruction by the party desiring to appeal, and stating that he appeals from the decision of the county superintendent, does not constitute an appeal. The initiatory steps must be taken in the matter with the county superintendent.

3. Appeal as to Whole Cause. An appeal must be taken as to the whole case State v. Miller, 63 Ind. 475.

4. Case Tried De Novo. On appeal the case is tried de novo on its merits.

[Acts 1901, p. 106. Approved March 6, 1901.]

61. Interest in Private Normal School. 1. No county superintendent shall conduct or assist in the conducting of any private or county normal school in this state, or receive any pay or emolument from the management of such school. (§6383.)

62. Penalty. 2. Any person violating the provisions of this act shall be fined in any sum not exceeding one hundred dollars, and shall be removed from office. (§6384.)

63. Duty of Prosecuting Attorney. 3. It shall be the duty of the prosecuting attorney to bring an action in the name of the State of Indiana, on relation of himself, against any one violating the provisions of this act, for the enforcement thereof, and he shall recover from the defendant in such action a reasonable attorney fee. (§6385.)

CHAPTER V.

TRUSTEE OF TOWNSHIPS, AND SCHOOL TRUSTEES OF TOWNS AND CITIES.

SEC.
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[Acts 1859, p. 181. Approved March 3, 1859.]

64. School Township. 1. Each and every township that now is, or may hereafter be, organized in any county in this state, is hereby also declared to be a school township, and, as such, to be a body politic and corporate, by the name and style of "..... school township of ..... county," according to the name of the township and of the county in which the same may be organized; and, by such name, may contract and may be contracted with, sue and be sued, in any court having competent jurisdiction. (§6404.)

1. CORPORATION DISTINCT. "There are two corporations in Greene County [conterminous in territory], with almost the same name. * * * The first is denominated a civil township, the second, a school township. * * * It must be contemplated that the funds, etc., of these two corporations shall be kept separate. It is as an officer of

the school township, and not as an officer of the civil township, that the trustee has authority and power to levy a tax for the erection of school houses, and to expend the same for that purpose. We think it must follow that it is as trustee of the school township, and not as trustee of civil township, that the trustee must contract for the building of school houses. We do not think the trustees of the civil township can legally contract for the building of a schoolhouse and make the civil township liable therefor."—Carmichael v. Lawrence, 47 Ind. 554; Utica Township v. Miller, 62 Ind. 230; Harrison School Township v. McGregor, 96 Ind. 185; Johnson v. Smith, 64 Ind. 275; Inglis v. State, 61 Ind. 212; Wright v. Stockman, 59 Ind. 65; Winga e v. Harrison School Township, 59 Ind. 520. A civil township has no power to make a contract for the benefit of school property.—Jackson Township v. Barnes, 55 Ind. 136; Jackson Township v. Home Insurance Company, 54 Ind. 184; McLaughlin v. Shelby Township, 52 Ind. 114; McIlwaine v. Adams, 46 Ind. 580; Hornby v. State, 69 Ind. 102.

2. Actions against school corporations must be brought against them in their corporate names, and an action will not lie against the civil township for a demand due from the school township.—Teeple v. State, 171 Ind. 268, 86 N. E. 49.

3. Suits against township trustees relating to school affairs must be brought against them as trustees of the school corporations.—Teeple v. State, 171 Ind. 268, 86 N. E. 49.

[Acts 1865, p. 3. Approved March 6, 1869.]

65. Oaths. 166. School officers are hereby authorized and empowered to administer all oaths relative to school business appertaining to their respective offices. (§6669.)

1. NOTE. But school officers can not administer oaths upon any other than school matters, and it is held that directors can not administer them at all. County superintendents and trustees may administer oaths to trustees and teachers reporting to them, and to witnesses in trials before them.

[Acts 1881, p. 718. Approved April 14, 1881.]

66. Women Eligible to School Offices. 1. Any woman, married or single, of the age of twenty-one years and upwards, and possessing the qualifications prescribed for men, shall be eligible to any office under the general or special school laws of this state. (§6672.)

67. Bond Binding. 2. Any woman elected or appointed to any office under the provisions of this act, before she enters upon the discharge of the duties of the office shall qualify and give bond as required by law, and such bond shall be binding upon her and her securities. (§6673.)

[Acts 1897, p. 64. Approved February 25, 1897.]

68. Township Trustee—Assessor—Date of Election. 1. The time for holding the election of township trustees and assessors, shall be changed from the general election on the first Tuesday after the first Monday in November, 1912, to the general election on the first Tuesday after the first Monday in November, 1914; and at the general election on the first Tuesday after the first Monday in November of every fourth year thereafter. (§6983 as amended. Acts 1911, p. 113.)

69. Manner of Election. 3. The election of said township officers shall be conducted under the provisions of the law governing said general elections. (§6985.)

70. Ballots and Ballot Boxes. 4. The names of the different candidates for said township offices shall be printed on separate ballots of a

ellow color and deposited in separate ballot boxes from that of the state and ounty ballots. Said ballot boxes shall be painted yellow, and said ballots nd ballot boxes shall be prepared in conformity with the law governing said eneral election. (§6986).

[Acts 1901, p. 418. Approved March 11, 1901.]

71. Trustees' Term. 3. The terms of office of all township trustees nd township assessors to be elected at the general election in November, 904, shall begin on the first day of January, 1905, and thereafter the terms f office of all township trustees and township assessors shall begin on the rst day of January succeeding their election. (§6989.)

[Law without signature of Governor. Acts 1917, p. 681.]

71a. Term of Township Trustee—When Eligible. 1. That any erson who holds the office of township trustee of any township in this state or one (1) term or less, shall be eligible to said office for the next ensuing term nless otherwise disqualified. And, thereafter, no person shall be eligible o the office of township trustee for more than eight (8) years in any period f twelve (12) years.

[Acts 1915, p. 73.]

71b. Schools—Trustees Elected—Terms. 1. That the common council of each city and the board of trustees of each incorporated town of this state shall at a regular meeting of such common council or board of trustees, after the incorporation of such city or town elect three school trustees, who shall hold their offices, one, two and three years, respectively, from and after the first day of the next succeeding August. The term of each of said trustees shall be determined by lot at the time of such election by such common council or board of trustees, and annually thereafter the common councils of each city and the board of trustees of each incorporated town, at their regular meetings in the month of June, shall elect one school trustee, who shall hold his office for three years from the first day of the next succeeding August. Such trustees shall constitute the school board of the city or town and before entering upon the duties of their offices they shall take an oath faithfully to discharge the duties of the same. They shall meet within five days after the first day of August of each year and organize by electing one of their number president, one secretary and one treasurer. The treasurer before entering upon the duties of his office shall execute a bond to the acceptance of the county auditor in a sum equal to the amount of money which may come into his hands at any one time during the year by virtue of his office. The president and secretary shall each give bond to be approved by the county auditor in any sum not less than one-third of the treasurer's bond: *Provided*, That in case of a newly incorporated city or town such trustees shall meet within five days of their election and organize by electing the officers and giving the bonds as herein provided, which officers and bonds shall be continued until the first day of August next succeeding such organization. All vacancies that may occur in said board of school trustees shall be filled by the common council or board of trustees of the town, but such elation (election) to fill a vacancy shall only be for the unexpired term. The board of school trustees shall within five days after the first day of August

of each year reorganize their boards and execute their bonds for the ensuing year. Said trustees shall receive for their services such compensation as the common council of the city or the board of trustees of the town may deem just, which compensation shall be paid from the special school revenue of the city or town; *Provided further*, That the provisions of this act relative to the appointment of school trustees shall not be mandatory upon those incorporated towns wherein the school corporations have been or shall hereafter be abandoned.

72. Cities Excepted. 2. The provisions of this act shall not apply to cities of over fifty thousand inhabitants, according to the last preceding United States census. (§6478.)

1. School trustees for cities are elected by the common councils of the respective cities; and they have charge of the schools in their respective political districts. 39 App. 568.

2. The board of commissioners, and not the city council is the proper party to investigate alleged misdoings of the school trustees of a city. 39 App. 568.

3. Resignations. A resignation of a town or city school trustee should be addressed to the body that elects, and is complete without formal acceptance; yet its withdrawal even after acceptance but with the consent of the electing body is equivalent to a reappointment. In case of such resignation an election to fill the vacancy may be held before the day set for the resignation to take effect.—Leach v. State, 78 Ind. 570.

4. Power as to Vaccination. School trustees have the power, as a measure of public safety and to guard against a contagious disease, to order school children to be vaccinated, but they should exercise it with discretion. In some localities there is no earthly danger of smallpox; in others—as a crowded city—when the disease has made its appearance immediate measures should be taken. The school trustees of a city or town or township may be compelled, by a mandate of the courts, to enforce an order of the board of health requiring all children to be vaccinated before being permitted to attend the public schools during a threatened epidemic of smallpox.—State v. Beil, 157 Ind. 25. See also Blue v. Beach, 155 Ind. 121.

5. Office Lucrative. As the statute provides for the compensation of town school trustees, their office is a lucrative one within the meaning of the constitution, and a person can not hold it at the same time with another lucrative office.—Chambers v. State, 127 Ind. 365.

6. Trustees Contracting with Themselves. School trustees can not enter into a contract with themselves.—29 Mich. 19.

7. Hiring of Teachers by Old School Board. A board of school trustees (not a township trustee), after their successors have been elected, and before they are entitled to serve as officers, may hire a teacher for the year beginning after their terms of office will expire.—School Town of Milford v. Zeigler, 1 App. 138. A school trustee of a township can not ignore his predecessor's contract, because of mere formal and technical defects.—Sparta School Tp. v. Mendell, 138 Ind. 188.

8. Signing Contract. If the school board in session hire a teacher, the contract with him may be signed at different times; and a signing by a majority of the trustees is sufficient.—School town of Milford v. Zeigler, 1 App. 138.

9. Abolishing School—Effect on Teacher's Contract. A contract with a teacher to teach can not be annulled by abolishing the school he was to have taught.—School Town of Milford v. Zeigler, 1 App. 138.

10. Majority of Trustees Sufficient to Make a Contract. A contract by two of three trustees when in session, "is valid."—School Town of Milford v. Zeigler, 1 App. 138.

[Acts 1865, p. 3. Approved March 6, 1865.]

73. Trustees' Bonds—Vacancy. 6. The county auditor, in fixing the penalty and approving and accepting the bonds of such trustees, shall

se to their sufficiency to secure the school revenues which may come into their hands, as well as the ordinary township or other revenue. In case of a vacancy in the office of trustee, the county auditor shall appoint a person to fill the same, who shall take an oath and give bonds as required in the last preceding section; and said auditor shall report to the superintendent of public instruction the name and postoffice address of each trustee. (§6406.)

1. FAILURE TO FILE BOND. The failure of a member of a school board to file a bond does not render his office vacant.—Koerner v. State, 148 Ind. 158.

[Acts 1899, p. 126, Acts 1915.]

74. Township Trustee—Official Bond. 1. That before entering upon the duties of his office the trustee of every township shall execute a bond conditioned as in ordinary official bonds in a penal sum of not less than the amount of money which may come into his hands at any one time as trustee of the civil township and of the school township to the acceptance of the county auditor. Such bond may be executed by a surety company or by two or more freehold sureties to be approved by the county auditor.

[Acts 1899, p. 424. Approved March 4, 1899.]

75. General Duties. 1. The school trustees shall take charge of the educational affairs of their respective townships, towns and cities. They shall employ teachers, establish and locate conveniently a sufficient number of schools for the education of the children therein, and build, or otherwise provide suitable houses, furniture, apparatus and other articles and educational appliances necessary for the thorough organization and efficient management of said schools. Such school trustees may also establish and maintain in their respective corporations, as near the center of the township as seems wise, at least one separate graded high school, to which shall be admitted all pupils who are sufficiently advanced: *Provided*, That the school trustees of two or more school corporations may establish and maintain joint graded high school[s] in lieu of separate graded high schools, and when so done they jointly shall have the care, management and maintenance thereof: *Provided further*, That any trustee, instead of building a separate graded high school for his township shall transfer the pupils of his township competent to enter a graded high school to another school corporation: *Provided further*, That all payments of tuition, provided for under this act, heretofore made by school trustees for such high school privileges, are hereby legalized: *Provided further*, That no such graded high school shall be so built unless there are at the time such house is built at least twenty-five common school graduates of school age residing in the township. (§6410 as amended 1901, p. 514.)

1. POWER OF TRUSTEE. The township trustee is clothed with almost autocratic power in all school matters. The voters and taxpayers of the township have but little, if indeed any, voice or part in the control of the details of educational affairs. So far as actual authority is concerned, the trustee is the corporation, although in contemplation of law it is otherwise.—Wallace v. Johnson Tp., 75 Ind. 368; Bicknell v. Widner School Tp., 73 Ind. 501.

2. PATRONS CAN NOT DESIGNATE TEACHERS. There is no provision of the law authorizing any other person than the trustee to select a teacher. It is therefore held

that the provision authorizing the trustee to employ teachers, also authorizes him to select them, and that school meetings are not empowered by the law to designate or employ teachers.—Rumble v. Parker, 27 App. 69.

3. Trustee can not Employ Himself. A township trustee, being the agent of the state to employ teachers for the public schools, is not authorized to employ himself.

4. Abandoned Corporation. In case a town abandons its corporation, the powers and duties of the board of school trustees cease, the township trustee succeeds thereto, and it becomes his duty to take charge of the schools without special notice.

5. Resignation of Teacher. The relation existing between trustee and teacher is based on a contract. A teacher can not resign and escape liability without the consent of the trustee. To abandon his school without such consent is a violation of his contract, and gives the trustee a claim against him for any damages actually sustained by the school in consequence thereof.

6. Trustee Authorized to Establish Schools. Although the legislature has limited the power of the trustee in regard to the removal of schoolhouses, and the abandonment of "district schools," no change has been made in the law which authorizes the trustee to establish schools and build school houses therefor.—State, ex rel., v. Black, 166 Ind. 138.

7. Township Trustee not Authorized to Employ a Superintendent of Schools. If a school trustee believes it to be to the best interest of the schools of his corporation, he may employ a teacher in the same way other teachers are employed by him who has a license to teach, and require him to go from school to school in his township and teach in each of said schools or in any designated number of such schools. There is, however, no authority given such trustee to employ a superintendent for the schools of his township or for any number of such schools.—Bingham, Att.-Gen.

76. Duration of School in Any Year. 2. Said school trustees shall maintain in each school corporation a term of school at least six months in duration, and shall authorize a local tuition levy sufficient to conduct a six months' term of school each year based on estimates and receipts from all sources for the previous year, which may include that received from the state's tuition revenue: *Provided*, Such levy shall not exceed the limit now provided by law. (§6411.)

1. Note. It is legal to continue the term in high schools for a longer period than the term in grade and district schools.

2. Donations. Donations may be received by the school authorities to extend the term of school, and the schools continued accordingly.

77. Janitors—Care and Management of School Property. 3. Said school trustees shall have the care and management of all property, real and personal, belonging to their respective corporations for common school purposes, except the congressional township school lands, which lands shall be under the care and management of the trustees of the civil township to which such lands belong. Said school trustees shall provide such janitor help as may be deemed necessary to properly care for the schools and premises under their control, and such janitors shall be paid from the special school funds of the township. (As amended 1907, p. 385; §6412.)

[Acts 1865, p. 3. Approved March 6, 1865.]

78. Towns and Cities. 4. Each civil township and each incorporated town or city in the several counties of the state is hereby declared a distinct municipal corporation for school purposes, by the name and style of the civil township, town or city corporation, respectively, and by such name may contract and be contracted with, sue and be sued, in any court having com-

etent jurisdiction; and the trustee of such township, and the trustees provided for in the next section of this act, shall, for their township, town, or ity, be school trustees and perform the duties of clerk and treasurer for school urposes. (§6405.)

1. Property and Revenues. When a village becomes incorporated the school own thus created becomes, as trustee by statute, the successor of the township in the ight to the possession and control of school property within its territory.—School Town of Leesburg v. Plain Township, 86 Ind. 582. And as soon as school trustees are appointed and qualified they have a right to demand and receive of the township trustee whatever sums of money he has received by reason or on account of the school children residing within or transferred to the town, and he can not lawfully withhold it on any ground. He received and held it in trust for those children.—Johnson v. Smith, 64 Ind. 275.

[Acts 1865, p. 3. Approved March 6, 1865.]

79. Record—Duty as to Revenue. 8. The trustees shall keep a record of their proceedings relative to the schools, including all orders and allowances on account thereof; including, also, accounts of all receipts and expenditures of school revenue, distinguishing between the special school revenue belonging to their township, town or city, and the school revenue for tuition, which belongs to the state, and by it apportioned to their township, town or city; which said revenue for tuition they shall not pernit to be expended for any other purpose, nor even for that purpose in advance of its apportionment to their respective corporations. (§6408.)

[Acts 1877, p. 18. Approved March 3, 1877.]

80. Surplus Special School Revenue. 1. It shall be the duty of the board of school trustees of any city or incorporated town in this state to pay over to the common council or board of trustees of such city or town any surplus special school revenue in the hands of such school trustees, not necessary to meet current expenses; such excess of the revenue aforesaid to be applied for the payment of the interest or principal, or both, of any indebtedness incurred under the provisions of the act of March 8, 1873, authorizing cities and incorporated towns to negotiate and sell bonds to procure means to erect and complete unfinished school buildings, and to purchase any ground and building for school purposes, and to pay debts contracted for the erection and purchase of buildings and grounds. (§6489 as amended 1879, p. 95.)

1. Payment for School House. A city can not pay for a schoolhouse out of its general fund. Such payment must be paid out of a fund especially levied for that purpose.—Nill v. Jenkinson, 15 Ind. 425.

[Acts 1873, p. 68. Approved March 8, 1873.]

81. Superintendent in Cities and Towns. 12. The school trustees of incorporated towns and cities shall have power to employ a superintendent for their schools (whose salary shall be paid from the special school revenue), and to prescribe his duties, and to direct in the discharge of the same. (§6488.)

1. Compensation. In case a person is employed to superintend part of the time and teach part of the time, he can be paid for the services he renders as superintendent

out of the special revenue, and for the services he renders as teacher out of the tuition revenue. If paid anything from the latter, he must possess a valid license.

2. Length of Employment. A city or town superintendent may be employed for one or more years, but it is not advisable to employ him for more than three.

3. Contract with Superintendent. A contract made by school trustees with a school superintendent prior to the June election of trustees, for services to be performed after such election, is binding on the corporation.—Reubelt v. School Town, 106 Ind. 478.

4. Term of Contract. School trustees may employ a superintendent of schools for a period of three years, although all the terms of such trustees will end before the expiration of such period.—Moon v. School City, — App. —. 98 N. E. 153.

[Acts 1883, p. 118. Approved March 6, 1883.]

82. Trustees' Reports. 21. The trustees of each township, town or city, shall, annually, on the first Monday of August, make their report for the school year ending on the 31st day of July, and furnish to the county superintendent the statistical information obtained from teachers of the schools of their respective townships, towns, or cities, and embody in a tabular form the following additional items: The number of districts; schools taught, and their grades; teachers, males and females; average compensation of each grade; balance of tuition revenue on hand at the commencement of the current year; amount received during the year from the county treasurer, and amount expended within the year for tuition; and balance on hand; length of school taught within the year, in days; schoolhouses erected during the year; the cost of the same; the number and kind before erection, and the estimated value thereof, and of all other school property; number of volumes in the library, and the number taken out during the year ending the 31st day of July; also the number of volumes added thereto; assessment on each one hundred dollars of taxable property, and on each poll of special tax for school house erection, and amount of such levy; balance of special school revenue on hand at the commencement of the current year; amount received during the year from the county treasurer; the amount of said revenue expended during the year, and balance on hand; the number of acres of unsold congressional school lands, the value thereof, and the income therefrom; together with such other information as may be called for by the county superintendent and the superintendent of public instruction. (§6425.)

[Acts 1865, p. 3. Approved March 6, 1865.]

83. Failure to Report. 22. On failure of any trustee to make either the statistical report required by the last preceding section, or the report of the enumeration required by the sixteenth section of this act [§4473], or the report of finances required by the seventh section of this act [§4441], to the county superintendent, at the time, and in the manner specified for each of said reports, the county superintendent to whom such reports are due shall, within one week of the time the next semi-annual apportionment is to be made by the auditor of the county, notify said auditor, in writing, of any such failure; and the auditor shall diminish the apportionment of said township, town or city by the sum of twenty-five dollars, and withhold from the delinquent trustee the warrant for the money apportioned to his township, town or city, until such delinquent report is duly made and filed. For said twenty-five dollars, and any additional damages which the township, town

r city may sustain, by reason of stopping said money, such trustee shall be liable on his bond, for which the county commissioners may sue. (§6426.)

84. Neglecting Duties. 23. If a trustee shall fail to discharge any of the duties of his office relative to the schools, any person may maintain an action against him for every such offense, in the name of the state of Indiana, and may recover, for the use of the common school fund, any sum not exceeding ten dollars; which sum, when collected, shall be paid into the county treasury, and added by the county auditor to said fund, and reported accordingly. (§6427.)

85. Failing to Serve. 24. Any person elected or appointed such trustee, who shall fail to qualify and serve as such, shall pay the sum of five dollars, to be recovered as specified in the preceding section for the use therein named, and in like manner added to said fund, unless such person shall have previously served as such trustee. (§6428.)

86. Trustee's Accounts. 141. The books, papers and accounts of any trustee, relative to schools, shall at all times be subject to the inspection of the county superintendent, the county auditor, and the board of county commissioners of the proper county. (§6429.)

87. Examination of Trustee and his Books. 142. For the purpose of such inspection, such county superintendent, auditor, and board of county commissioners may, by subpoena, summon before them any trustee, and require the production of such books, papers and accounts, three days' notice of the time to appear and produce them being given. (§6430.)

88. Correction of Accounts—Removal. 143. If any such books and accounts have been imperfectly kept, said board of commissioners may correct them, and, if fraud appear, shall remove the person guilty thereof. (§6431.)

[Acts 1895, p. 127. Approved March 5, 1895.]

89. Trustee to take Enumeration—Who Enumerated. 14. The school trustees of the several townships, towns and cities shall take or cause to be taken, between the tenth day of April and the thirtieth day of the same month, each year, an enumeration of all unmarried persons between the ages of six and twenty-one years resident within the respective townships, towns and cities.

Each person required or employed to take such enumeration shall take oath or affirmation to take the same accurately and truly to the best of his skill and ability. Such oath or affirmation shall be made a matter of record and kept on file in the office of the school trustee.

In making the said enumeration, the trustee, or person so employed, shall distinguish between the white and colored children, enumerating them in separate lists, and shall list the names of parents, guardians, heads of families, or persons having charge of such child or children, male or female, shall list the full name and give the sex and age of each child so enumerated, shall secure the signature of either parent, guardian, head of family, or person having charge of such child or children, certifying to the correctness of the same, or if this is impossible, shall secure the signature of some responsible

person who can certify to the correctness of said list; and he shall give the number of the school district to which such parent, guardian, head of family or person having charge of such child or children is attached for school purposes, and the number and initials which designate the congressional township in which such parent, guardian, head of family or person having charge of such child or children resides. In cities the said enumerator shall give, in addition to the above enumerated items, the street and number of residence of such person. He shall include in such list all unmarried persons between the ages of six and twenty-one years, whose parents, guardians, heads of families or persons having charge of such child or children, shall have been transferred to his township, town or city for school purposes; and he shall exclude from such list all persons whose parents, guardians, heads of families or persons having charge of such child or children shall have been transferred from his township, town or city for school purposes. He shall not include in such list any persons residing temporarily in his township, town or city for the purpose of attending school, or who are members of a family staying temporarily in his township, town or city, but whose actual residence is elsewhere. He shall include in his list such unmarried persons between six and twenty-one years of age, as are dependent upon themselves and not under charge of parents, guardian or heads of families, and shall so designate such persons in a separate list, giving in cities the street and number of the residence of such persons. He shall enumerate no one who is not reported to him personally, and properly certified to as herein provided, except in cases of minors who are dependent upon no one, and not inmates of any family who may be reported as herein provided for: *Provided*, That if any parent, guardian, head of family or person having charge of any child, shall be absent, the enumerator shall ascertain the facts required from other reliable sources, and sign his own name to the certificate herein required; and in case any parent, guardian, head of family or person having charge of any child entitled to school privileges shall refuse to report to the enumerator any facts herein required, necessary to a full and accurate enumeration, he shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than one nor more than ten dollars. Each person required or employed to take the enumeration as provided for in this act, shall, when making returns of said enumeration to the proper officers, make affidavit or affirmation that he has taken and returned the enumeration in accordance with the provisions of this act, to the best of his knowledge and belief, and that such list contains the names of all persons entitled to be enumerated, and no others. The officer to whom such return is required to be made may take and shall certify such affidavit or affirmation, and shall keep in his office such affidavit or affirmation and such report and list of names; and each person so taking and returning the enumeration shall be allowed by the township school trustee, or the school trustees of incorporated towns or cities, reasonable compensation per diem for his services, to be paid out of the special school fund of such township, town or city. Any person appointed as enumerator, or any officer through whose hands the enumeration required by this act shall pass, who shall knowingly enumerate persons not entitled to be enumerated, or who shall in any manner add to or take from the number actually enumerated, shall be deemed guilty of a misdemeanor, and upon conviction of such offense, shall be fined in any sum not less than five nor more than one hundred dollars, or

imprisonment in the county jail not less than ten nor more than thirty days, at the discretion of the court. (§6447.)

1. Enumerators to be Paid by the Day. A school board has no authority whatever to let a general contract to take the school enumeration, nor has it any authority to pay its employes in taking such enumeration, otherwise than by the day.—Bingham, Att.-Gen.

2. Persons Enumerated. Only unmarried persons between the ages of six and twenty-one years of age are to be enumerated as school children, and persons must be enumerated in the township where they reside.—Draper v. Cambridge, 20 Ind. 268; Vier v. State, 161 Ind. 435.

[Acts 1895, p. 127. Approved March 5, 1895.]

90. Enumeration, Where Filed—Retaking. 18. Each township trustee and the president of the board of school trustees of towns and cities shall, on or before the first day of May, annually, report to and file with the county superintendent of the proper county, a copy of the enumeration for school purposes of his township, town or city, with a list of transfers to such township, town or city, with his affidavit endorsed thereon to the effect that the same is, to the best of his knowledge and belief, full and accurate and taken in accordance with the provisions of the law governing the enumerations. When said county superintendent, however, on an examination of the enumeration returns of any township, town or city, finds any evidence that the enumeration is excessive in number or in any other way incorrect he may require the same to be retaken and returned, and if he deem it necessary he may, for this purpose, appoint persons to perform the service, who shall take the same oath, perform the same duties, and receive the same compensation out of the same funds as the person or persons who took the enumeration in the first place, and the school revenue shall be distributed to such school corporation upon the corrected returns. (§6463.)

[Acts 1913, p. 78.]

91. Soldiers and Sailors—Enumeration. 1. That beginning with the year 1913, and every year thereafter, the school trustees of the several townships, towns and cities of this state, at the time when they take or cause to be taken, the enumeration of all unmarried persons between the ages of six (6) and twenty-one (21) years, resident within the respective townships, towns or cities, as provided for in the laws of this state, shall likewise be required to take or cause to be taken, by the same person who takes such school enumeration, a supplementary enumeration of all persons living within such townships, who served in the army or navy of the United States during the Mexican war, the Civil war or the Spanish-American war, or who have served one or more enlistments in the United States army, the United States navy, or the national guards. In taking or causing to be taken such supplementary enumeration, the trustee or person so employed shall list the full names and ages of such soldiers and sailors, the company, regiment or battery in which they served, and the state from which they enlisted. Each person required or employed to take such enumeration shall take the same accurately and truly to the best of his skill and ability. (§10055a.)

92. Duplicate Lists—Filed with State Library. 2. Such supplementary enumeration lists shall be prepared in duplicate, on separate sheets

or lists, which shall be provided for that purpose. And when the enumeration of all such soldiers and sailors shall have been completed and when the duplicate enumeration lists, herein provided for, shall have been prepared and authenticated, the township trustee of each and every township in this state shall deposit one (1) copy of such supplementary enumeration lists in the office of the clerk of the circuit court of the county in which his township is situated, and he shall enclose such other list securely in an envelope and mail it to the state librarian of this state, and the lists so secured and obtained shall be classified and bound and deposited in the archives of the state library. (§10055b.)

[Acts 1865, p. 3. Approved March 6, 1865.]

93. Township in Two or More Counties—Report. 19. When a congressional township is located in two or more counties, the proper trustees for each portion thereof in the several counties shall report, at the same time and in like manner as provided in the last preceding section, to the county superintendent of the county in which the congressional township fund of such township is held in trust and managed. (§6464.)

1. Explanation. This section requires that when a congressional township is located in two or more counties, the proper trustees for each portion thereof shall make two separate and distinct reports of enumeration.

[Acts 1877, p. 122. Approved March 2, 1877.]

94. County Board of Education. 8. The county superintendent and the trustees of the townships, and the chairman of the school trustees of each town and city of the county shall constitute a county board of education. Said board shall meet semi-annually at the office of the county superintendent on the first days of May and September (unless the said days be Sunday, and if so, on the day following), a majority of whom shall constitute a quorum. The county superintendent shall preside at the meetings of the board, shall be allowed to vote on all questions as other members of the same are allowed to vote. Said board shall consider the general wants and needs of the schools and school property of which they have charge, and all matters relating to the purchase of school furniture, books, maps, charts, etc. The change of text-books, except cities, and the care and management of township libraries, shall be determined by such board, and each township shall conform as nearly as practicable to its action; but no text-book hereafter adopted by the county board shall be changed within six years from the date of such adoption, except by unanimous vote of all the members of such board: Provided, That any text-book heretofore adopted by the county board of education shall not be changed within three years from the date of its adoption. (§6403.)

1. Quorum, Rules and Regulations, Records, etc. In the absence of the county superintendent the board may appoint one of its members president pro tem. No action can be taken by the board unless a majority of all the members are present. If such majority be present at any meeting the board may take legal action upon suitable questions by a majority vote of those present; but some questions require a majority vote, and others a unanimous vote, of all the members of the board.

The board may adopt rules and regulations for the government of the schools of the county.

It is very important that school officers and county boards should make a careful record of their proceedings. If a board takes any legal action, and fails to record it, or makes an incorrect record, the record can be amended by order of the board at a subsequent meeting. A legal act is not necessarily void by reason of a failure to make a record of it; but if a question should arise as to the action of a board, evidence may be taken at a subsequent meeting outside the records, and a new record may be made in accordance with the fact as ascertained.

The county board and trustees have the right to make such rules and regulations, according to law, as will tend to promote the general good of the public schools, and it is the duty of the teachers to carry out such rules in good faith.

2. Adoption of Text Books. By virtue of the Act of 1889 and the Acts amendatory and supplemental thereto, the authority and duty of selecting text books for use in the common and high schools of the state is vested in the State Board of Education sitting as a State Board of School Book Commissioners and hence the county board of education has no authority to select text books for use in the schools.

[Acts 1911, p. 350. Approved March 4, 1911.]

95. Emergency School Township Debts Legalized. 1. Whenever, since the enactment of an act entitled "An act concerning township business," approved February 27, 1899, Burns' Revised Statutes 1908, sections 9590 et seq., and prior to March 5th, 1909, any township advisory board of any township in the State of Indiana, when convened in regular or special session at which a quorum of all the then members of such advisory board was present and acting, such advisory board by the consent and vote of such quorum shall have found that an emergency and necessity existed for the construction of a new school-building or an addition to a then existing school building in said township, that the cost thereof would be in excess of the sum available therefor out of the annual levy in said township, and thereupon, by the consent and vote of such quorum, the trustee of said township was authorized to borrow money to pay the cost of construction of such new school-building or of such addition to such then existing school-building, and to issue and make the obligation of obligations or such township therefore, but by oversight or neglect such finding, consent, vote and authority of said advisory board was not entered of record and signed, but said trustee, in pursuance of such consent, vote and authority, did, in good faith, borrow money necessary for the construction of such school-building or addition to a then existing school-building, and in good faith executed the written obligation or obligations of such township therefor, to run not exceeding five years and to bear not exceeding six per centum interest per annum and such money so borrowed was, in good faith, actually expended in the construction of such new school-building or such addition to a then existing school-building, then, in all such cases, the indebtedness so authorized and contracted, the proceeds of which was so used, and said written obligation or obligations so executed therefor, shall be and are hereby legalized, validated and made the legal obligation or obligations of said school township in which such action was taken and such school-building or addition was constructed, to the same extend [extent] as if such finding, consent, vote and action had been duly made, given and taken and such record made and signed in strict accordance with said act approved February 27, 1899, and any and all amendments and additions thereof, and thereto and any and all amendments of any section thereof, and taxes shall be duly levied in said township to raise money to pay off such obligation or obligations according

to the terms thereof: *Provided*, That nothing in this act shall affect any pending litigation in any of the courts of this state.

[Acts 1911, p. 27. Approved February 16, 1911.]

96. School Township Debts Legalized. 1. Whenever, since the enactment of "An act concerning township business", approved February 27, 1899, Burns' Revised Statutes, 1908, section 9590, etc., and prior to June 27, 1905, the date when a transfer to the supreme court of Indiana was denied in the cause of Lincoln School Township vs. Union Trust Company of Indianapolis, reported in vol. 36, page 113, of the reports of the appellate court of Indiana, any school township in Indiana, acting by its trustee, shall have in good faith attempted to comply with the act entitled "An act to limit the powers of township trustees in incurring debts, and requiring him to designate certain days for the transaction of township business," approved March 11, 1875, Burns' Revised Statutes 1908, section 9583, and shall have procured the consent and order of the board of commissioners of the proper county at any regular or special session thereof to borrow money on behalf of such school township for the purpose of erecting school buildings in such township, and shall have, pursuant to such an order of such board of commissioners, borrowed any sum of money from persons or corporations loaning the same in good faith to such township, and such township shall have executed to such persons or corporations its written obligations in evidence of and for the amount of such loans, and said sum of money so borrowed shall have been faithfully expended by such school township in paying for the school buildings for which it was authorized to be borrowed by such order of such boards of commissioners, then and in all such cases such debts so authorized, and the proceeds of which were so used, and the obligations of such school townships evidencing such debts, shall be and are hereby legalized and validated to the same extent as if said debts had been duly authorized by the advisory boards of such townships; also that all payments of principal or interest on account of the aforesaid debts made by the trustees and advisory boards of such townships shall be and are hereby legalized and validated; also, that all debts heretofore created by such school townships for money borrowed and used for the purpose of paying the principal or interest on the class of debts first herein described, and all obligations evidencing such last described debts, be and the same are hereby legalized and validated, all to the same extent as if said debts, and the obligations evidencing the same, had been duly made and authorized by the advisory boards of such townships in strict conformity with said act, approved February 27, 1899.

[Acts 1911, p. 613. Approved March 6, 1911.]

97. School Bond Sales Legalized. 1. That all bonds heretofore issued and sold by the township trustee of any township pursuant to the order of the advisory board of any such township in this state, for the purpose of providing money for the construction of any school building under color of any statute of this state, where the purchase price for said bonds has been actually received and retained or used for the purpose for which said bonds were ordered to be sold, are hereby legalized; and all proceedings or acts of any such advisory board or trustee under which said bonds were issued and sold are hereby fully legalized and declared valid.

98. Funding Bonds—Sales Legalized. 2. That all bonds heretofore issued and sold by the township trustee of any township, pursuant to the order of the advisory board of any such township in this state, for the purpose of refunding any outstanding indebtedness of such township under color of any statute of this state, where the purchase price for said bonds has been actually received and retained by such township or used for the purpose for which said bonds were ordered to be sold, are hereby legalized; and all proceedings or acts of any such advisory board or trustee under which said bonds were issued and sold, are hereby fully legalized and declared valid.

99. Pending Litigation. 3. Nothing in this act contained shall be so construed as to affect any pending litigation or to legalize any bond or bonds issued or sold in excess of any constitutional limitation of the amount of indebtedness authorized to be created.

[Acts 1911, p. 42. Approved February 24, 1911.]

100. School Bonds—Issue Legalized. 2. Any and all bonds heretofore issued and sold by the order or direction of the board of trustees or other authorities of any school city or school town of this state under color of any statute of this state, for the purpose of providing money for the use of such school city or school town, where the purchase price for said bonds has been actually received and retained or used for the purpose for which said bonds were ordered to be sold, are hereby legalized; and all proceedings or acts of any such board of trustees or other officer under which said bonds were issued and sold, are hereby fully legalized and declared valid.

101. Pending Litigation 3. Nothing in this act contained shall be so construed as to affect any pending litigation or to legalize any bond or bonds issued or sold in excess of any constitutional or statutory limitation of the amount of indebtedness authorized to be created.

[Acts 1911, p. 141. Approved March 2, 1911.]

102. Township Debt Certificates Legalized. 1. All orders warrants or certificates of indebtedness drawn and issued by any township trustee on the advice and consent on the advisory board of said township against any fund whatsoever, which were drawn and issued subsequent to January 1, 1900, being the first day of the calendar year for which appropriations could have been made, by the township advisory board, pursuant to the provisions of the act entitled "An act concerning township business," and which orders, warrants or certificates of indebtedness were based upon emergencies declared by the advisory board and appropriations made therefor and for work done and material purchased on the order of said advisory board and which orders, warrants or certificates of indebtedness were executed by the trustee and approved by the advisory board of said township and for which the township received the full benefit but for the payment of which orders, warrants or certificates of indebtedness the advisory board failed at its next regular session, after having authorized same, to make provisions for the payment of the same and which orders, warrants or certificates of indebtedness are still unpaid and outstanding

because of such failure to make provision for the payment of same are hereby declared to be legal and valid claims against such township: *Provided*, That nothing in this act shall in any way affect any suit now pending in any of the courts of Indiana but the same shall be heard and determined the same as if this act had not been passed.

103. Schools—Bonds Legalized. 1. That all bonds heretofore issued by the order and direction of the board of school trustees or other authorities of any school city or school town of this state under color of any statute of this state, pursuant to the order and direction of the common council or board of trustees of such city or town, for the building of school houses where necessary to build and repair the same for the use of such school city or school town, and such school trustees having failed to comply with the laws of the State of Indiana in respect to the proper construction and sanitary conditions of the same, are hereby legalized; and all proceedings or acts of any such board of trustees of such city or town under which said bonds were issued, are hereby fully legalized, and declared valid.

104. Pending Litigation. 2. Nothing in this act contained shall be so construed as to affect any pending litigation. (Acts 1913, p. 264.)

[Approved March 5, 1915.]

105. Schools—Legalizing Township Debts—Authorizing Bonds. 1. That whenever, since the enactment of an act entitled "An act concerning township business," approved February 27, 1899, Burns' Revised Statutes 1914, section 9590 et seq., and prior to November 1, 1914, that in all townships of this state having a population of less than 1,430 and more than 1,420, as shown by the last preceding United States census, any township advisory board of any such school township within the State of Indiana, when convened in annual or special session, the calling of which session being regular or irregular, at which a quorum of all the members of such advisory board was present and acting, such advisory board by the consent and vote of such quorum having neglected to find that an emergency and necessity existed for the construction of a new school building, or an addition to a then existing school building in said township, and did at such meeting or meetings, duly authorize the construction of certain school buildings or additions and repairs to then existing school buildings in such school township, but then and there neglecting and failing to appropriate the necessary funds to pay for said improvements before the undertaking or completion of such inprovements so authorized by a majority of such board, and wherein the trustee of said township was then and there directed to advertise for bids and let contracts therefor, but by reason of oversight or neglect such finding, consent, vote and authority was not entered of record and signed, but said trustee, in pursuance of such consent, vote and authority, and in good faith, did have plans and specifications prepared for said school buildings or additions to then existing school buildings, and did then and there give the legal notice for bids therefor, and did then and there receive bids for such improvements, and did then and there award said contract or contracts to the lowest and best bidder therefor and did enter into a proper contract in writing with the successful bidder and the said bidder giving statutory bond for the faithful performance of the work under the said improvements, which said improvements were duly

entered into, made and completed and afterwards duly accepted by the proper officials of said school township, all of said proceedings being by the township officers and the contractor entered into, done and executed in good faith, then in all such cases the contractual rights so performed and indebtedness so incurred, shall be and are hereby legalized, validated and made the legal obligations of said school township in which such action is taken and such school buildings or additions to then existing school buildings were then and there constructed, erected or repaired, and authority is hereby given and made for the payment for said new school buildings or additions to then existing school buildings, or repairs to the same, by the issuing of township warrants or bonds therefor, as if such finding, consent, appropriation, vote and action had been duly made, given and taken and such records made and signed in strict accordance with said act approved February 27, 1899, and any and all amendments and additions thereof and thereto, and any and all amendments of any section thereof, and taxes shall be duly levied in said township to raise money to pay off such obligation or obligations, to be hereafter determined, according to the terms thereof: *Provided*, That nothing in this act shall affect any pending litigation in any of the courts of the State of Indiana.

106. Advisory Board—Provisions for Payment. 2. The Township advisory board of any township where orders, warrants or certificates of indebtedness of the kind and class described in section 1 of this act are outstanding is hereby authorized and empowered to make immediately provisions for the payment of such orders, warrants or certificates of indebtedness by appropriating therefor, as provided in the act creating such advisory board any funds in the township treasury not now otherwise appropriated, or by making a temporary loan of sufficient funds to make such payments. Such loans to be made in accordance with the provisions of the law providing for temporary loans and such township advisory board shall then at its next annual meeting appropriate and levy a sum sufficient to pay such loan, or by directing the issuing of bonds of such township in a sufficient amount to make such payment, such bonds to be issued as now provided for bonds for the building of new school houses, not to exceed five years and not less than one-fifth to be paid each year, provision for the payment of which to be made by the advisory board at each annual meeting until the same shall be paid.

107. Payment—Notice. 3. As soon as the fund provided for by this act shall have become available the township trustee shall at once give notice that there are funds in the township treasury to pay such warrants, which notice shall be by publication for two successive weeks in two newspapers representing opposite political parties of such township, or if there be none in the township then in two newspapers of opposite political parties of the county in which such township is located, and shall describe such orders, warrants, or certificate of indebtedness by reference to the fund against which they were drawn and as having been issued subsequent to January 1, 1900, and no interest shall be paid on any such orders, warrants or certificates of indebtedness after thirty days from the date of the first publication of such notice.

108. Act Remedial. 4. This act is hereby declared to be remedial only, and supplemental to the act entitled "An act concerning township business."

[Acts 1911, p. 94. Approved February 27, 1911.]

109. Schools—Sale of Property. 1. That whenever any city or town shall have purchased any property for school purposes in such city or town and shall afterwards find that any property so purchased is unnecessary for such purposes, the board of school trustees of such city or town may sell the same when in their opinion it is advantageous to such city or town so to do, at public auction after twenty days advertisement of such sale, to the highest bidder: *Provided*, That before such sale is made such real estate shall be appraised by two freeholders, voters of the school corporation in which such real estate to be sold is situated, and such appraisement returned before the advertisement aforesaid to the school officer or officers who are to sell the same, in writing and on such sale such real estate, shall not be sold for less than the appraised value thereof, for cash, and upon the payment of the purchase money to the treasurer of school trustees said board of school trustees shall execute to the purchaser a deed of conveyance which shall be sufficient to vest in such purchaser all the title of such city or town thereto. The money derived from such sale shall be turned into the special school revenue of the city or town. (§6555n1.)

110. Sales Legalized. 2. All sales of school property heretofore made in good faith by the boards of school trustees of any city or town are hereby legalized, and declared valid: *Provided*, That this shall not apply to or affect any pending litigation.

[Acts 1917, p. 152. Approved March 5, 1917.]

111. Legal Notices, Publication of. 1. That in all cases where now the law provides for the publication of legal notices in a weekly newspaper, it shall be lawful hereafter to make such publications in either a daily or weekly newspaper: *Provided*, That such publication, if published in a daily newspaper, shall be published at least once a week for the same time and period as now required by law, and *Provided further*, That if such publication is made only once each week, it shall be made on the same day of each week.

112. Repeal. 2. All laws and parts of laws inconsistent with this act are hereby repealed.

113. Township Trustee—Advisory Boards—Transfer of Funds. 1. That if it appears to the advisory board of any township in the State of Indiana, at the next annual September meeting of such board, that there is a surplus of the road funds of such township that will not be needed for road purposes then such advisory board may, by a unanimous vote, pass a resolution and spread the same upon the minutes of such board, directing the trustee of such township to transfer all or any specified portion of such surplus road fund, to the special school fund of such township, and when any such advisory board shall make any such order it shall be the duty of the trustee to transfer said fund in compliance to such order, which fund so

transferred shall become a part of the special school fund of such township and be used for special school purposes. (Acts 1913, p. 551.)

[Approved March 14, 1913.]

114. Schools—Towns—Election of School Trustees. 1. That in the election of school trustees in incorporated towns, the board of trustees of incorporated towns, shall vote by ballot and such voting shall continue until some competent person receives a majority of all votes cast or until such meeting adjourns or the voting ceases by a majority vote of the members of the board of town trustees. Should an election fail to occur at any one regular meeting, then at the next regular meeting, the board of trustees shall again proceed to the election of a school trustee or trustees, in like manner and under the same conditions and should no election occur at such meeting, then the board of trustees may determine then and there whether to take further votes at some later meeting and so on from one regular meeting to another until an election occurs or until such board of trustees shall determine by a majority vote to cease trying to elect; and, no person be permitted to vote except they be a qualified member of said body and the clerk of the board of trustees shall preside at such election but shall have no vote. In all cases where no election takes place, the present incumbent shall continue to serve until an election does occur and until his successor shall be elected and qualifies and all official acts of any member so holding over and the official acts of any such board during such time, will be valid as though an election should have taken place: *Provided*, That this act shall not change the time of election of school trustees or the terms of present incumbents except in cases where no successor is elected as herein provided; nor shall it affect cities that have by special act, a different mode of election prescribed by law. (§6478a.)

115. Supplementary Act. 2. This act is supplementary in its nature and repeals only such laws as may be in conflict therewith.

CHAPTER VI.

TEACHERS.

SEC.		SEC.	
116.	Employment and dismissal.	122.	Reports.
117.	Examined concerning alcohol and narcotics.	123.	Schools — Minimum wages for teachers.
118.	Failure to teach, effects—Dismissal.	124.	Qualifications.
119.	Terms for which teachers may be employed.	125.	Payment at less rate—Penalty.
120.	Contracts to be in writing.	126.	State board of education—Duties.
121.	Blanks to be uniform.	127.	Special examination.
		128.	Insulting teacher.
		129.	Attending—Pay of teachers.

[Acts 1883, p. 30. Approved February 27, 1883.]

116. Employment and Dismissal. 28. Trustees shall employ no person to teach in any of the common schools of the State of Indiana, unless such person shall have a license to teach, issued from the proper state or county authority, and in full force at the date of the employment. Any teacher who shall commence teaching any such school without a license, shall forfeit all claim to compensation out of the school revenue for tuition for the time he or she teaches without such license, but if a teacher's license shall expire by its own limitation within a term of employment, such teacher may complete such term of employment within the then current year. The said trustee shall not employ any teacher whom a majority of those entitled to vote at school meetings have decided at any regular school meeting, they do not wish employed; and at any time after the commencement of any school, if a majority of such voters petition such trustee that they wish the teacher thereof dismissed, such trustee shall dismiss such teacher, but only upon due notice, and upon good cause shown; but such teacher shall be entitled to pay for services rendered. (§6592.)

1. The provisions of this section relating to the employment of teachers that the voters at school meetings have decided they do not wish employed, have no application to cities and incorporated towns.—Crawfordsville v. Hays, 42 Ind. 200.

2. LICENSE ESSENTIAL. A valid contract for the teaching of a public school can not be made by a trustee with one who, at the time, has no license to teach in the county, and the subsequent procurement of a license does not validate the contract.—Butler v. Haines, 79 Ind. 575. And a person can neither recover compensation for services rendered as teacher, nor damages for breach of contract for such services, unless he was licensed to teach as prescribed by the statutes.—Jackson School Township v. Farlow, 75 Ind. 118. See also Harrison Township v. Conrad, 26 Ind. 337, and Putnam v. School Town of Irvington, 69 Ind. 80. In a suit against the school corporation for services rendered or to be rendered, it must be stated in the complaint that the teacher had a license to teach when he rendered the services or entered into the contract.—Bedford, etc., Co. v. McDonald, 12 App. 621.

3. OBJECTIONS TO TEACHER. Objections by school voters to the employment of a school teacher must be made before the teacher is employed, and school trustees are not required to notify school patrons of their intention to employ a teacher before he is employed.—Rumble v. Barker, 27 App. 69.

4. Contracts with schools teachers can not be abrogated by abolishing the school. —School Town v. Zeigler, 1 App. 138.

5 MARRIAGE OF TEACHER. If a teacher agrees to remain unmarried during the continuance of a contract, her marriage in violation of a contract is cause for its rescission.—Guilford Twp. v. Roberts, 28 App. 355.

6 If schools are closed on account of prevailing disease among the pupils, the teachers may recover full compensation.—School Town v. Gray, 10 App. 428.

2 FORMS FOR TEACHER'S CONTRACT. a. In township.

TEACHER'S CONTRACT.

7 THIS AGREEMENT, Between....., School Trustee of .....School Township, in.....County and State of Indiana, of the first part, and.....a teacher who holds a.....license, issued.....19... for.....months by....., Superintendent on which license h.... average scholarship is.....per cent, h.... last success grade is.....per cent; who was.....present at all the sessions of the .....County Institute in 19...., of the second part, certifies that the said teacher agrees to teach in the public schools of said Township in such building, grade and room as said Trustee may designate, for the term commencing on the.....day of.....A. D. 19.. for the consideration of.....Dollars and .....cents per day, to be paid.....

(State here when all parts of the salary will be paid.)

The said.....,.....further agrees faithfully to perform all the duties of teacher in said school, using only such text-books as are prescribed by the Trustees in accordance with the law, except supplementary reading, such as Young People's Reading Circle Books, etc., and other works recommended by the County Superintendent, and observing all Rules and Regulations of the County Board of Education, and all the instructions of the County Superintendent of Schools; that ..he will attend and participate in the exercises of each Institute or other Teachers' Meetings that may be appointed for the Teachers of said Township; that ..he will accurately keep and use all registers and blanks placed in ..... hands by said Trustee; that ..he will make a complete and accurate report at the close of the school term, the blank for which is provided on the back of this sheet; that ..he will make all other reports required of h.... by said Trustee, the County Superintendent, or the Laws of Indiana, at the proper time and manner, and in good order; that ..he will exercise due diligence in the preservation of school buildings, grounds, furniture, apparatus, books, blanks, and other school property committed to h...., care. and turn the same over to the Trustee, or his representative, at the close of the term of the school, in as good condition as when received, damage and wear by use excepted, accompanied by an exact inventory of all supplies and apparatus on hands, a description of the condition of the same, and a recommended list of materials to be purchased for next school year.

The said School Trustee agrees to keep the school buildings in good repair, to furnish the necessary fuel, furniture, apparatus, books and blanks, and such other appliances as may be necessary for the systematic and proper conduct of said school, and to provide such janitor help as may be necessary to properly care for said school and its premises.

And the said School Trustee, for and in behalf of said Township, further agrees to pay the said..... for services as teacher of said school, either a sum equal to the whole number of days taught, at the rate of the above-named sum per day, as agreed upon, or the salary for the year in the event of a yearly consideration, as agreed upon, when the said teacher shall have filled all the stipulations of this contract.

The said School Trustee further agrees to pay said teacher one day's wages for each day's attendance at the Township Institute, according to the Acts of 1917.

PROVIDED, That in case the said..... should be dismissed from said school by said Trustee, or his successor in office, for incompetency, cruelty, gross immorality, neglect of business, or a violation of any of the stipulations of this contract, or in case h.... license should be revoked by the

County Superintendent, . . he shall not be entitled to any compensation after notice of dismissal or notice of annulment of license.

. . . . . .

. . . . . .

. . . . . .

. . . . . .

PROVIDED FURTHER, That the teacher shall have a duplicate of this contract.

IN WITNESS WHEREOF, We have hereunto subscribed our names, this. . . . . .day of. . . . . , A. D. 19. . . .

. . . . . , Teacher.

. . . . . , School Trustee.

Notes:

1—A valid contract for teaching a public school cannot be made by a trustee with anyone unless he holds a valid license, either County or State.

2—Full authority is given the Trustee to substitute the words "principal," "supervisor," or "superintendent" for the word "teacher," in the event the contract should be so made.

3—This contract form is the official blank, made by the State Superintendent of Public Instruction, under Sec. 6595, Burns' Rev. Stat. 1914.

(Township Form)

TEACHER'S REPORT TO TOWNSHIP TRUSTEE.

1. Total number of pupils enrolled during the year 19. . . . in:

ELEMENTARY.

First Grade.	Fifth Grade. . . . .
Second Grade.	Sixth Grade. . . . .
Third Grade.	Seventh Grade. . . . .
Fourth Grade.	Eighth Grade. . . . .

HIGH SCHOOL.

First Year.	Third Grade. . . . .
Second Grade.	Fourth Grade. . . . .

Total number of pupils enrolled in all the Elementary and High Schools for the year 19. . . .

2. Total number of pupils enrolled during the year 19. . . .

Males { White. . . . . Females { White. . . . . Total. . . . . Colored. . . . . Colored. . . . . .

3. Average daily attendance of all children in the schools:

{ White. . . . . General Average. . . . . Colored. . . . . .

4. Average daily absence of all children in the schools:

{ White. . . . . General Average. . . . . Colored. . . . . .

5. Number of graduates from the "Common Branches":

Males { White. . . . . Females { White. . . . . Total. . . . . Colored. . . . . Colored. . . . . .

6. Number of graduates from High School:

Males { White. . . . . Females { White. . . . . Total. . . . . Colored. . . . . Colored. . . . . .

7. Inventory of Apparatus and Supplies on hand. (Furnish list of Library Books on separate sheet.)

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8. Recommended List of Materials and Supplies needed.

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Notes:

—To find the average daily attendance: Divide the total number of days attended by all pupils, by the number of days school was in session.

—To find the average daily absence: Divide the total number of days of absence of all pupils by the number of days schools was in session.

—A pupil should be marked "withdrawn" after three days' absence.

TEACHER'S CONTRACT.

THIS AGREEMENT, made and entered into between the School {City / Corporation of / Town} ....., in.....Co., and State of Indiana, by.....
.....
.....the Board of School Trustees of said Corporation, of the first part, and....., a teacher who holds a .....license issued.....19...., for..... months, by.....Superintendent; on which license h.... average scholarship is .... %, h.... last success grade is .... %, who was ..... present at all the sessions of the.....Co. Institute in 19...., of the second part, certifies that the said teacher agrees to teach in the public schools of said School Corporation, in such building, grade, and room as the said Board of Trustees, or their Superintendent of schools may designate, during the school year, beginning the.....day of.....A. D., 19...., for the salary of.....Dollars per....., to be paid.....
.....

(State when all or parts of salary will be paid.)

Said.....further agrees, faithfully, zealously, and impartially, to perform all the duties as such teacher, using only such text-books as are prescribed by said Board or Superintendent of said schools that...he will attend and participate in the exercises of each Saturday Teacher's Institute that may be appointed for the teachers of said School Corporation; that...he will accurately keep and use all registers and blanks placed in h.... hands by said School Board or the Superintendent of said schools; that...he will make a complete and accurate report at the close of the school term, the blank for which is provided on the back of this sheet; that ..he will make all other reports required by said School Board, Superintendent or School Law; that ..he will exercise due diligence in the preservation of the school buildings, grounds, furniture, books, maps, and other school property committed to h.... care, and turn same over to said Board at the close of said school in as good condition as when received, damage and wear by use excepted; and that....he will conform to the rules and regulations of said Board and Superintendent, and faithfully and impartially enforce them among the pupils.

Said School Corporation, by said School Board, agrees to keep the school buildings in good repair and furnish the necessary fuel, furniture, books, maps, blanks and such other appliances as may be necessary for the successful teaching of the branches in said schools.

And said School Corporation, by said School Board, further agrees to pay said ..... for services as teacher of said school, said salary of ..... Dollars per....., as above agreed upon.

The said School Corporation, by said School Board, further agrees to pay said teacher one day's salary for each day's attendance at such Saturday Teachers' Institute, which may be held by authority of said School Board, according to the Acts of 1917; PROVIDED, That said School Board shall not be liable for the payment for attendance at Saturday Teacher's Institutes unless so stipulated in this Contract.

PROVIDED FURTHER, That in case said teacher shall be discharged from said school by said School Board for incompetency, cruelty, gross immorality, neglect of business, or a violation of any of the stipulations of this Contract, or in case h.... license should be revoked by the County Superintendent, ..he shall not be entitled to any compensation after notice of dismissal or annulment of license.

.....

.....

.....

PROVIDED FURTHER, That the teacher shall have a duplicate copy of this contract.

IN WITNESS WHEREOF, We have hereunto subscribed our names, this..... .....day of.....A. D., 19....

.....President

.....Secretary

.....Treasurer

Board of School Trustees.

.....Teacher

NOTES:

1—A legal contract for teaching a public school cannot be made between a school board and a person who does not hold a valid license.

2—Full authority is given school boards to substitute the words "principal," "supervisor," or "superintendent" wherever the word "teacher," appears in the contract, when the contract should be so drawn.

3—This contract is the official form, as made under the provisions of Section 6595, Burns' Rev. Stat. 1914.

(Town and City Form)

TEACHER'S REPORT TO SCHOOL BOARD.

1. Total number of pupils enrolled during the year 19.... in:

ELEMENTARY.

First Grade.....	Fifth Grade.....
Second Grade.....	Sixth Grade.....
Third Grade.....	Seventh Grade.....
Fourth Grade.....	Eighth Grade.....

HIGH SCHOOL

First Year.....	Third Grade.....
Second Grade.....	Fourth Grade.....

Total number of pupils enrolled in all the Elementary and High Schools for the year 19....

2. Total number of pupils enrolled during the year 19....:

Males { White..... / Colored..... } Females { White..... / Colored..... } Total.....

3. Average daily attendance of all children in the schools:

{ White..... / Colored..... } General Average.....

4. Average daily absence of all children in the schools:

{White.....
General Average.....
Colored.....

5. Number of graduates from the "Common Branches":

Males {White..... Females {White..... Total.....
Colored..... Colored.....

6. Number of graduates from High School:

Males {White..... Females {White..... Total.....
Colored..... Colored.....

7. Inventory of Apparatus and Supplies on hand. (Furnish list of Library Books on separate sheet.)

.....
.....
.....
.....
.....
.....

8. Recommended list of materials and supplies needed:

.....
.....
.....
.....
.....
.....

NOTES:

1—To find the average daily attendance: Divide the total number of days attended by all pupils, by the number of days school was in session.

2—To find the average daily absence: Divide the total number of days of absence of all pupils, by the number of days school was in session.

3—A pupil should be marked "withdrawn" after three days' absence.

[Acts 1895, p. 375. Approved March 14, 1895.]

117. Examined Concerning Alcohol and Narcotics. 2. No certificate shall be granted to any person (on) or after the first day of July, 1895, to teach in the common school or in any educational institution supported as aforesaid who does not pass a satisfactory examination as to the nature of human system. (§6587.)

118. Failure to Teach, Effects.—Dismissal. 3. Any superintendent or principal of, or teacher in any common school or educational institution supported as aforesaid, who willfully refuses or neglects to give the instruction required by this act shall be dismissed from his or her employment. (§6588.)

[Acts 1893, p. 34. Approved and in force February 17, 1893.]

119. Terms for which Teachers may be Employed. After the passage of this act it shall be unlawful for any township trustee to contract with any teacher to teach in any common school if the actual term of service of such teacher under such contract does not begin before the expiration of the term of office of such trustee. Every contract made in violation of the provisions of this section shall, as to the township represented by such trustee,

and the school fund thereunto belonging, he absolutely void; but such trustee shall be personally liable to such teacher for all services rendered under such contract, and for all damages which he may sustain by reason thereof. (§6593.)

[Acts 1899, p. 173. Approved February 28, 1899.]

120. Contracts to be in Writing. All contracts hereafter made by and between teachers and school corporations of the State of Indiana shall be in writing, signed by the parties to be charged thereby, and no action shall be brought upon any contract not made in conformity to the provisions of this act. (§6594.)

121. Blanks to be Uniform. 2. For the purpose of carrying this act into effect the school trustees of the several school corporations of this state shall provide a public record of uniform blank contracts to be carefully worded under the direction of the superintendent of public instruction, and cause such contracts to be signed therein, which record shall be deemed a public record, open to inspection by the people of their several school corporations. (§6595.)

[Acts 1865, p. 3. Approved and in force March 6, 1865.]

122. Reports. 20. To enable the trustees to make reports which are required of them by this act, the teacher of each school, whether in township, town or city, shall, at the expiration of the term of the school for which such teacher shall have been employed, furnish a complete report to the proper; trustee, verified by affidavit, showing the length of the school term, in days; the number of teachers employed, male and female, and their daily compensation; the number of pupils admitted during the term, distinguishing between males and females, and between the ages of six and twenty-one years; the average attendance; books used and branches taught, and the number of pupils engaged in the study of each branch. Until such report shall have been so filed, such trustee shall not pay more than seventy-five per centum of the wages of such teacher for his or her services. (§6424.)

1. Suit. It is a part of a teacher's contract that he will make a report, and until he does so he can not recover more than three-fourths of his wages unless the trustee has waived the report, and the burden is on the teacher to show either that he made the report or it was waived, if he desires to recover the full amount of his earnings. —Owen School Tp. v. Hay, 107 Ind. 351.

2. Truancy. Teachers are required by the compulsory education law to report to truant officers or other school officers cases of truancy or irregularity in attendance. See truancy law.

[Acts 1913, p. 104.]

123. Schools—Minimum Wages for Teachers. 1. That the daily wages of teachers for teaching in the public schools of the state shall not be less, in the case of beginning teachers, than an amount determined by multiplying two and one-half cents by the general average given such teacher on his highest grade of license at the time of contracting. For teachers having had a successful experience for one school year of not less than six months, the daily wages shall be not less than an amount determined by multiplying three cents by the general average given such teacher on his highest grade of license at the time of contracting. For teachers having had a successful

experience for three or more school years of not less than six months each, the daily wages shall be not less than an amount determined by multiplying three and one-half cents by the general average given such teacher on his highest grade of license at the time of contracting. For teachers having had a successful experience of five or more school years of not less than six months each, the daily wages shall be not less than an amount determined by multiplying four cents by the general average given such teacher on his highest grade of license at the time of contracting. All teachers now exempt from examination shall be paid, as daily wages for teaching in the public schools, not less than an amount determined by multiplying three and one-half cents by the general average of scholarship and success given such teacher: *Provided*, That the grade of scholarship accounted in each case be that given at the teacher's last examination, and that the grade of success accounted be that of the teacher's term last preceding the date of contracting: *and Provided, further*, That two per cent shall be added to the teacher's general average of scholarship and success for attending the county institute the full number of days, and that said two per cent shall be added to the average scholarship of beginning teachers. (§6599.)

1. If a teacher is not paid the full amount of wages that is due under the law and the contract with the teacher, the remainder may be recovered from the school corporation.—Rutherford School Tp. v. Craney, 99 N. E. 485.

2. Contracts with teachers to pay more than the minimum wages fixed by statute cannot be enforced unless an appropriation has been made by the township advisory board to pay such excess.—Mitchell Free Tp. v. Baker, 101 N. E. 1037.

3. EXEMPTION. The two per cent given for attendance on a county institute applies to exemption license.

4. STATE NORMAL DIPLOMAS. Persons holding diplomas from the State Normal School are entitled to the two per cent. for attending the county institute, but the said two per cent must be added to the grades upon which their state or county licenses have been issued.

5. MUST ATTEND ENTIRE INSTITUTE. A teacher is not entitled to the two per cent. unless he answers the first roll call and is present daily all the sessions, including the last roll call.

6. CITY AND TOWN TEACHERS. City and town teachers are entitled to the two per cent. for attending the county institute.

124. Qualifications of Teachers. 2. The qualifications required for teaching for the different classes shall be as follows:

(a) A teacher without experience: Shall be a graduate of a high school or its equivalent. Shall have had not less than one term of twelve weeks' work in a school maintaining a professional course for the training of teachers: *Provided*, That completion of one year, or more, in a recognized college shall be accepted in lieu of twelve weeks' work in a school maintaining a professional course for the training of teachers. Shall have not less than a twelve months' license.

(b) A teacher with one school year's experience: Shall be a graduate of a high school or its equivalent. Shall have not less than two terms or twenty-four weeks' work in a school maintaining a professional course for the training of teachers or the equivalent of such work: *Provided*, That the one year of college work optional for a teacher without experience shall be ac-

cepted as one of the required two terms of work, in this class. Shall have a two years' license. Shall have a success grade.

(c) A teacher with three or more years' successful experience: Shall be a graduate of a high school or its equivalent. Shall be a graduate from a school maintaining a professional course for the training of teachers, or its equivalent. Shall have a three years', five years', eight years', or a life license. Shall have a success grade.

(d) A teacher with five or more years' successful experience: Shall be a graduate of a high school or its equivalent. Shall be a graduate from a school maintaining a professional course for the training of teachers, or its equivalent. Shall have taught as a class (c) teacher two or more years previous to entering this class. Shall have a three years', five years', eight years', or life license. Shall have a success grade: *Provided*, That for teachers already in the service, prior to August, 1908, successful experience in teaching shall be accepted as an equivalent for high school and professional training, as required by all the above classifications. (§6600.)

1. The issuing of a five years' license is no longer authorized by law. See Acts 1915, p. 627.

125. Payment at Less Rate—Penalty. 3. If any school officer shall pay to any teacher for school services at a rate less than that fixed by this act, he shall be fined in any amount not exceeding $100.00 and shall be liable in a civil action for wages to such teacher at the rate provided in this act, which may be recovered by such teacher, together with an attorney's fee of $25.00, in any court of justice of competent jurisdiction. (§6601.)

126. State Board of Education—Duties. 4. It shall be the duty of the state board of education, from time to time, to provide regulations which shall define the words "high school" and "equivalent" in this act, it being the intent hereof that only such schools be recognized as high schools as maintain a standard of scholarship and efficiency and course of study to the approval of the state board of education, and that the word "equivalent" as used in this act shall mean such a course of study or training or the ability to pass such an examination as in the judgment of the state board of education would as fully qualify the applicant for teaching as the qualification of high school or normal school work and the licenes respectively named above requires. (§6602.)

[Acts 1865, p. 143. Approved and in force December 20, 1865.]

127. Special Examination. 35. If the persons attached to and forming a school district have, at their school meeting, designated other or a less number of branches of learning than those in section 34 of this act (§4425) mentioned, which they desire to have taught in their school, the trustee, in employing a teacher for said school, shall require said teacher to be examined as to his qualifications to teach the branches of learning required by said school meeting. (§6603.)

1. See Sec. 38 for teacher's examination.

128. Insulting Teacher. 162. If any parent, guardian, or other person, from any cause, fancied or real, visit a school with the avowed intention of

upbraiding or insulting the teacher in the presence of the school, and shall so upbraid or insult the teacher, such person, for such conduct, shall be liable to a fine of not more than twenty-five dollars, which, when collected shall go into the general tuition revenue. (§6608.)

The teacher may exact compliance with all reasonable commands, and enforce obedience by inflicting corporal punishment, in a kind and reasonable manner, upon a pupil for disobedience. Such punishment must be within the bounds of moderation, and apportioned to the gravity of the offense; but when complaint is made, the judgment of the teacher as to what the situation required should have weight, as in the case of a parent under similar circumstances, and the reasonableness of the punishment must be determined upon the facts of the particular case. The presumption is that the teacher did nothing more than his duty. The legitimate object of chastisement is to inflict punishment by the pain which it causes as well as by the degredation it implies; and it does not follow that chastisement was cruel or excessive because pain was produced, or abrasions of the skin resulted from a switch used by the teacher. When a proper weapon has been used, the character of the chastisement with reference to any alleged cruelty or excess, must be determined by the nature of the offense, the age, physical and mental condition, as well as the personal attributes, of the pupil, and the deportment of the teacher.—Vanactor v. State, 113 Ind. 276; Danenhoffer v. State, 79 Ind. 75.

Associations.

[Acts 1911, p. 666. Approved March 6, 1911.]

129. Attending—Pay of Teachers. 1. That the school board of any city or town, and the township trustee of any township, may adjourn the schools of such city, town or township in order to allow teachers to attend sessions of schools or institutes of agricultural instruction held in the county, and the meetings of any teachers' associations, and to visit model schools under the direction of trustees or boards of trustees and shall pay such teachers a wage for the time spent equal to the per diem of such teacher: *Provided*, That not more than three days shall be allowed in any one year. (§6640a.)

CHAPTER VII.

Schools.

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132. Term continued.
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[Acts 1865, p. 3. Approved March 6, 1865.]

130. Bible. 167. The Bible shall not be excluded from the public schools of the state. (§6578.)

131. Uniformity of Terms.—Numbering of Schools. 14. All schools in a township shall be taught an equal length of time, as nearly as the same can be done, without regard to the diversity in the number of pupils at the several schools, or the cost of the school; and each of said schools shall be numbered, by the proper trustees, as school No. ——. (§6579.)

1. Uniformity. The statute only requires the schools in the townships to be taught an equal length of time, as nearly as the same can be done.—Harmony School Tp. v. Moore, 80 Ind. 276. See also Maloy v. Madget, 47 Ind. 241.

132. Schools—Term Continued. 1. That in any township or incorporated town in which a non-commissioned or a commissioned or certified high school has been or may hereafter be established, when the school trustee of such township or the school trustees of such incorporated town deem it unwise or inexpedient to continue the term of the elementary schools for the period required for a commissioned or a certified high school, said trustees

are authorized to continue the non-commissioned, commissioned or certified high school of said school corporation for a term not to exceed that required for a commissioned high school. (§6411a.)

133. Calendar. 163. A school term of three months shall be sixty days, a school month twenty days, and a school week five days. (§6580.)

[Acts 1877, p. 124. Approved March 5, 1877.]

134. Colored Children. 3. The trustee or trustees of such township, town or city may organize the colored children into separate schools of the township, town or city, having all the rights, privileges and advantages of all other schools of the township, town or city: *Provided*, That in case there may not be provided separate schools for the colored children, then such colored children shall be allowed to attend the public schools with white children: *Provided further*, That when any child attending such colored school shall, on examination and certificate of his or her teacher, show to the trustee or trustees of any township, town or city that he or she has made sufficient advancement to be placed in a higher grade than that afforded by such colored school, he or she shall be entitled to enter the school provided for white children of a like grade, and no disinction shall therein be made on account of race or color of such colored child. (§6581.)

[Acts 1885, p. 125. Approved April 2, 1885.]

135. Appropriations for Indigent Children. 1. The boards of commissioners in the several counties of this state are hereby authorized to make suitable appropriations for the education, in the common school branches of learning, of the pauper children of their respective counties whenever, in the judgment of the board of commissioners, justice to the school district or districts wherein such pauper children are kept demands such assistance; and all expenditures authorized by this act shall be made and paid out of the county treasury on warrants drawn by the auditor on the order of the board of commissioners: *Provided*, That where there is no provision for a matron, or an insufficient number of children to require the services of a matron, or the establishment of a separate school for the inmates of such asylums, it shall be the duty of the board of commissioners to require the superintendent of such asylum to send such children to the township schools. (§6674.)

[Acts 1869, p. 40. Approved May 5, 1869.]

136. Branches Taught. 147. The common schools of the state shall be taught in the English language; and the trustee shall provide to have taught in them orthography, reading, writing, arithmetic, geography, English grammar, physiology, history of the United States, and good behavior, and such other branches of learning and other languages as the advancement of the pupils may require and the trustees from time to time direct. And whenever the parents or guardians of twenty-five or more children in attendance at any school of a township, town or city shall so demand, it shall be the duty of the school trustee or trustees of said township, town or city to procure efficient teachers and introduce the German language, as a branch of study,

in such schools; and the tuition in said schools shall be without charge: *Provided*, Such demand is made before the teacher for said district is employed. (§6582.)

1. School authorities may establish reasonable rules as to the studies to be pursued by pupils, and may suspend pupils for failure to comply with such rules.—State v. Webber, 108 Ind. 31; Bowers v. State, 127 Ind. 272.

[Acts 1895, p. 375. Approved March 14, 1895.]

137. Effect of Alcoholic Drinks and Narcotics. 1. The nature of alcoholic drinks and narcotics and their effects on the human system in connection with the subjects of physiology and hygiene, shall be included in the branches to be regularly taught in the common schools of the state and in all educational institutions supported wholly or in part by money received from the state; and it shall be the duty of the boards of education and boards of such educational institutions, the township trustees, the board of school trustees of the several cities and towns in this state to make provisions for such instruction in the schools and institutions under their jurisdiction, and to adopt such methods as shall adapt the same to the capacity of the pupils in the various grades therein; but it shall be deemed a sufficient compliance with the requirements of this section if provision be made for such instruction orally only, and without the use of text-books by the pupils. (§6586.)

[Acts 1865, p. 3. Approved March 6, 1865.]

138. Voters' Meeting—School Director. 25. The voters shall meet, annually, on the first Saturday in October, and elect one of their number director of such school; who shall, before entering upon duty, take an oath faithfully to discharge the same. The director so elected shall, within ten days after said election, notify the trustee of his election; and, in case of failure to elect, the trustee shall forthwith appoint a director of said school. But any director so appointed may be removed, upon a petition of three-fourths of the persons attached to said school who are entitled to vote at school meetings. (§6589.)

1. Voters at School Meetings. Voters at the school meetings of a district are all taxpayers, male and female, except married women and minors, who have been listed as parents, guardians or heads of families, and attached to such district. Tax payers are those persons who are liable to pay taxes, either poll or upon property. Any voter at the school meeting, a woman if unmarried, is eligible to the office of director.

[Acts 1865, p. 3. Approved March 6, 1865.]

139. Voters at School Meetings. 15. Any person who is a voter at township elections, and has no children in charge between the ages of six and twenty-one years, by making application to the trustee of his township while the enumeration is being made, and by indicating to said trustee his selection of the school to which he desires to be attached, may have his name listed by said trustee on the enumeration list, and be attached to the school selected, and thus become entitled to the privileges of said school, and be a voter at its school meetings. Such persons, together with the parents, guardians and heads of families mentioned in section 14, and the persons transferred from other townships and attached to said school, as provided in sections

fourteen and sixteen of this act, shall be the only persons entitled to vote at the meetings of the school so selected, and all other persons shall be excluded from voting at such meetings.

1. NOTE. In Carnahan v. State, 155 Ind. 156, the supreme court intimates that the above section is still in force, and calls attention to the fact that it has been omitted from all the revisions of the statutes of this state made since 1870.

2. LISTED AND ATTACHED. To be "listed as parents, guardians or heads of families" means that the trustee in taking the enumeration listed them, that is, put them on the enumeration list or report, and "attached," that is, assigned them to a certain district for school purposes.

[Acts 1873, p. 68. Approved March 8, 1873.]

140. Other Meetings.—Powers. 26. The voters at school meetings may hold other school meetings at any time upon the call of the director or any five voters. Five day's notice shall be given of such meeting, by posting notices in five public places in the vicinity; but no meeting shall be illegal for want of such notice, in the absence of fraud; and the legality of such proceedings, if called in question, shall be determined by the trustee of the township, subject to an appeal to the county superintendent, whose decision shall be final. Such school meetings shall have power to determine what branches, in addition to those mentioned in section thirty-four of this act [§4425], they desire shall be taught in such school, and the time at which such school shall be taught: *Provided, however*, That the tuition revenue apportioned to the school shall be expended within the school year for which it was apportioned. *Provided, further*, That such school year shall begin on the first Monday of July. Such school meetings shall likewise have the power to fill vacancies that may occur in the office of director; to direct such repairs as they may deem necessary in their school house; to petition the township trustee for the removal of their school house to a more convenient location, for the erection of a new one, or the sale of an old one and the lands belonging thereto, and upon any other subject connected therewith; and at such meetings all taxpayers of the district shall be entitled to vote, except married women and minors: *Provided*, That nothing herein contained shall prevent the trustee from exercising a sound discretion as to the propriety or expediency of making such repairs, removing or erecting school houses, and the cost thereof. (§6590.)

[Acts 1865, p. 3. Approved March 6, 1865.]

141. Estimates of Expenses. 27. When such meetings shall petition the trustee in regard to repairs, removal or erection of a schoolhouse, they shall also furnish to such trustee an estimate of the probable cost of such repairs, removal or erection. (§6591.)

142. Director's Duties. 29. The director of each school shall preside at all meetings of the inhabitants connected therewith, and record their proceedings. He shall also act as the organ of communication between the inhabitants and the township trustee. (§6604.)

143. Charge of the Schoolhouse. 30. He shall take charge of the school house and property belonging thereto, under the general order and concurrence of the trustee, and preserve the same; and shall make all temp-

orary repairs of the schoolhouse, furniture and fixtures, and provide the necessary fuel for the school, reporting the cost thereof to the trustee for payment. (§6605.)

1. Possession of House. We think the trustee has charge and possession of the school house, for although the director has the charge for certain purposes, he acts under the order and concurrence of the trustees.—Hurd v. Walters, 48 Ind. 148.

2. Changing Site of Schoolhouse. The relocation of a school house requires a majority petition of the patrons, the trustee's signature thereto and the county superintendent's decision in favor thereof, a failure of any one of which being fatal.—Brandt v. State, ex rel., 171 Ind. 288.

3. Control of School Property. (§6412.)

144. Visits Schools—May Exclude Pupils. 31. He shall visit and inspect the school, from time to time, and, when necessary, may exclude any refractory pupil therefrom; but the exclusion of any pupil from the school for disorderly conduct shall not extend beyond the current term, and may be, in the discretion of the director, for a shorter period. (§6606.)

145. Appeal to Trustee. 32. The decision of a director in excluding a pupil shall be subject to appeal to the township trustee, whose decision shall be final. (§6607.)

[Acts 1907, p. 323. Approved March 9, 1907.]

146. Common Schools Defined—High School Courses 1. The public schools of the state shall be and are defined and distinguished as (a) elementary schools and (b) high schools. The elementary schools shall include the first eight (8) years of school work, and the course of study for such years [that] which is now prescribed or may hereafter be prescribed by law. The commissioned high schools shall include not less than four (4) years' work following the eight years in the elementary schools. The high school course in non-commissioned high schools shall be uniform throughout the state and shall follow a course to be established and amended or altered from time to time as occasion may arise, by the state board of education. (§6583.)

147. High School Studies. 2. The following enumerated studies shall be taught in all commissioned high schools throughout the state, together with such additional studies as any local board of education may elect to have taught in its high school: *Provided*, That such additions shall be subject to revision of the state board of education. Mathematics: Commercial arithmetic, algebra, geometry. History: United States, ancient, medieval or modern. Geography: Commercial or physical. English: Composition, rhetoric. Literature: English, American. Language (foreign): Latin or German. Science: Biology, physics or chemistry. Civil government: General, state. Drawing. Music. (§6584.)

1. For uniform high school text-books, see section 600.

148. High School Inspector. 1. That the state superintendent of public instruction with the approval of the state board of education, shall appoint a high school inspector who shall act under the direction of the state superintendent and the state board of education. The duties conferred by law

upon the state board of education in making inspections of high schools shall be performed by the high school inspector. The high school inspector shall be paid a salary of two thousand five hundred dollars ($2,500) annually and he shall be allowed his necessary expenses while engaged in the performance of his duties. (§6296a.)

149. Appropriation. 2. An amount to pay the salary and expenses of the high school inspector is hereby appropriated out of the state treasury from moneys not otherwise appropriated. (§6296b.)

[Acts 1889, p. 355. Approved March 9, 1889.]

150. Kindergartens. 1. In addition to other grades or departments now established in the common schools of the state, the board of trustees of any incorporated town or city are hereby empowered by law to establish, in connection with the common schools of such incorporated town or city, a kindergarten or kindergartens for the instruction of children between the ages of four and six, to be paid for in the same manner as other grades and departments now established in the common schools of such incorporated town or city: *Provided, however*, That no money accruing to such incorporated town or city from the "school revenue for tuition fund" of the state shall be used to defray the tuition and other expenses of such kindergarten; but the same may be defrayed from the local tax for tuition and the special school revenue of said incorporated town or city. (§6483.)

[Acts 1901, p. 123. Approved March 6, 1901.]

151. Free Kindergarten Tax. 1. In any city having a population according to the last United States census of over six thousand, the board of school commissioners or school trustees may, in fixing the annual levy of taxes for school purposes, include therein two cents on each one hundred dollars of valuation for the purpose of providing a fund for the support of free kindergarten schools in said city. (§6484, as amended 1911, p. 112.)

152. How Collected and Disbursed. 2. The tax so levied shall be collected as the other taxes for school purposes in such city are collected and shall be disbursed by the county treasurer as other school funds raised by local taxation are disbursed, and said free kindergarten fund shall be applied to the aid, maintenance and support of free kindergarten schools conducted by any association incorporated for that purpose having the approval of and designated by the superintendent of schools of said city, and said fund shall be from time to time paid over to said association for such use upon the written order of said superintendent directed to said county treasurer: *Provided*, That in cities having a population of more than one hundred thousand, according to the last preceding United States census, such tax shall be levied and such association shall not receive such funds unless for more than two years next preceding it shall have maintained at least twelve such free kindergarten schools. (§6485.)

[Acts 1911, p. 485. Approved March 6, 1911.]

153. Medical Inspection of Children. 1. That all school trustees and township trustees are herewith permitted and recommended to institute medical inspection of school children at any time, the said trustees may

require teachers to annually test the sight and hearing of all school children under their charge, the said tests and uses thereof to be made according to the rules hereinafter authorized. (§6585a.)

154. Medical Inspection Defined. 2. The term, medical inspection, as used in this act, shall be held to mean the testing of the sight and hearing of school children and the inspection of said children by school physicians for disease, disabilities, decayed teeth or other defects, which may reduce efficiency or tend to prevent their receiving the full benefits of school work. (§6585b.)

155. School Physician—Appointment—Compensation. 3. Beginning with the school year 1911, school trustees and township trustees may appoint at least one school physician for each school corporation: *Provided*, Where practicable, two or more school corporations may unite and employ one such physician, whose duties shall be such as are prescribed in this act and the authorized rules, but no physician shall have more than 2,000 school children under his charge. Said school physicians shall be graduates of a medical college, recognized by the state board of registration and examination, shall hold a license to practice medicine in Indiana, and shall be informed and skilled in medical inspection of children, informed in the health laws and the health rules of the state board of health, shall be temerate, able-bodied, cleanly in person, not addicted to drugs, and of good moral character, and no others shall be appointed. School physicians may be discharged by the appointing power at any time. School physicians shall serve one year and until their successors are appointed, and shall receive such compensation as the appointing trustee or trustees may determine. (§6585c.)

156. Physician's Duties. 4. School physicians shall make prompt examination and diagnosis of all children referred to them and such further examination of teachers, janitors and school buildings as in their opinion the protection of the health of the pupils and teachers may require. Whenever a school child is found to be ill or suffering from any physical defect, the school physician shall promptly send it home, with a note to parents or guardians, briefly setting forth the discovered facts, and advising that the family physician be consulted. If the parents or guardians are so poor as to be unable to give the relief that is necessary, then school trustees and township trustees, as the case may be, shall provide the necessary relief: *Provided*, That in cities where public dispensaries exist, the relief shall be given by said dispensaries. School physicians shall keep accurate card-index records of all examinations, and said records, that they may be uniform throughout the state shall be according to the form prescribed by the rules authorized in this act, and the method and manner of reports to be made shall be according to said rules: *Provided, however*, That if the parent or guardian of any school child shall at the beginning of the school year furnish the written certificate of any reputable physician that the child has been examined and parents notified of the results of such examination in such cases the services of the medical inspector herein provided for shall be dispensed with, and such certificate shall be furnished by such parent or guardian from time to time, as required by the trustee or board of trustees having charge of such schools. (§6585d.)

157. **Rules for Enforcement.** 5. The state board of education and the state board of health, shall jointly pass rules for the detail enforcement of the purposes of this act, which rules shall bear the printed seals of said boards; the said rules to be printed and promulgated by the state printing board; promulgation to consist in supplying a reasonable number of copies to each county superintendent from whom all who are interested may procure a copy. (§6585e.)

158. **Penalty.** 6. All violations of this act, except as otherwise provided shall be punished by a fine of not less than ten or more than fifty dollars. (§6585f.)

[Acts 1907, p. 537. Approved March 12, 1907.]

159. **United States Flag.** 1. It shall be the duty of the township trustees, board of school trustees and boards of school commissioners of the various school corporations of this state, upon the petition of a majority of the school patrons of any district school to procure a United States flag not less than six feet long for each school under their supervision. (§6413, as amended 1911, p. 453.)

160. **Display of Flag.** 2. The township trustees, boards of school trustees and boards of school commissioners of the various school corporations in this state shall cause the United States flag to be displayed upon every public school building under their control on every school day such school is in session: *Provided*, That the weather conditions permit. Such trustees and boards shall establish rules and regulations for the proper care, custody and display of the flag and when for any cause it is not displayed, it shall be placed conspicuously in the principal room or assembly hall of the school building. (§6414, as amended 1911, p. 453.)

161. **Destruction or Mutilation.** 3. It shall be unlawful for any person to mutilate or destroy any flag so owned by said school corporation, or to mutilate or destroy any flagstaff or appliances belonging to said school corporations as aforesaid. (§6415.)

162. **Penalty.** 4. Any person violating the provisions of section 3 of this act shall be guilty of misdemeanor and on conviction shall be punished by a fine of not less than $25.00 for the first offense, and not more than $100.00 for the second offense, to which may be added imprisonment for not more than thirty days. (§6416.)

[Acts 1909, p. 356. Approved March 8, 1909.]

163. **Star Spangled Banner.** The state board of education shall require the singing of the "Star-Spangled Banner," in its entirety in the schools of the State of Indiana, upon all patriotic occasions, and that the said board of education shall arrange and supply the words and music in sufficient quantity for the purposes indicated therein. (§6582a.)

[Acts 1913, p. 759.]

164. **Legal Holiday—Discovery Day.** 1. The first day of the week, commonly called Sunday; the first day of January, commonly called New Year's day; the fourth day of July; the twenty-fifth day of December, com-

monly called Christmas day; any day appointed or recommended by the president of the United States or the governor of Indiana as a day of public fasting or thanksgiving; the twelfth day of February, commonly called Lincoln's birthday; the twenty-second day of February, commonly called Washington's birthday; the thirtieth day of May, commonly called memorial day; the first Monday of September, commonly called labor day; the twelfth day of October, commonly known as discovery day; and the day of any general, national or state election, shall be legal holidays within the State of Indiana for all purposes. And when any of said holidays (other than Sunday) comes on Sunday, the Monday next succeeding shall be the legal holiday. (§9086.)

[Acts 1913, p. 422.]

165. Schools—Arbor Day—Fixing Date. 1. That for the purpose of encouraging the planting of shade and forest trees, shrubs and vines, the third Friday of April in each year is hereby designated as a day for general observance and to be known as Arbor Day. (§7461a.)

166. Proclamation. 2. The Governor shall make proclamation of said day in each year at least thirty days prior thereto. (§7461b.)

167. School Exercises. 3. Appropriate exercises shall be introduced in all the schools of the state; and it shall be the duty of the several county and city superintendents to prepare a program of exercises for that day to to be observed in all the schools under their respective jurisdictions. The exercises on arbor day shall give due honor to the conservors of forestry, and the founders of the study and conservation of Indiana forestry. And especially to the leading spirit of Indiana forestry conservation, Charles Warren Fairbanks. (§7461c.)

[Acts 1913, p. 693. Approved March 14, 1913.]

168. State Song—"On the Banks of the Wabash, Far Away." 1. That the song entitled, "On the Banks of the Wabash, Far Away," words and music by Paul Dresser, be and is hereby established as the state song of Indiana. The form in which this song shall be sung as the state song of Indiana shall be as follows:

'Round my Indiana homestead wave the cornfields,
In the distance loom the woodlands clear and cool,
Often times my tho'ts revert to scenes of childhood,
Where I first received my lessons—nature's school.
But one thing there is missing in the picture,
Without her face it seems so incomplete,
I long to see my mother in the doorway,
As she stood there years ago, her boy to greet.

Chorus.

Oh, the moonlight's fair tonight along the Wabash,
From the fields there comes the breath of new-mown hay,
Through the sycamores the candle lights are gleaming,
On the banks of the Wabash, far away.

Many years have passed since I strolled by the river,
Arm in arm, with sweetheart Mary by my side,
It was there I tried to tell her that I loved her,
It was there I begged of her to be my bride.
Long years have passed since I strolled thro' the churchyard,
She's sleeping there, my angel, Mary dear,
I loved her, but she thought I didn't mean it,
Still I'd give my future were she only here.
(§10135a.)

[Acts 1913, p. 967.]

169. State Flower—Carnation. *Be it Resolved,* By the House of Representatives, the Senate concurring, That the carnation be and the same is hereby adopted as the state flower of the State of Indiana. (Note under §10135a.)

[Acts 1907, p. 616. Approved March 12, 1907.]

170. Secret Societies Unlawful. 1. The common schools of the State of Indiana, both elementary and high schools, shall be open to all children until they complete the courses of study in said common schools, subject to the authority of the teachers therein and to all the rules and regulations provided by the proper authorities for the government of such schools. It shall be unlawful for the pupils in any of the elementary or high schools of this state to form secret societies, fraternities or other similar organizations, in such schools; and the board of school commissioners or board of trustees of any school town or city, and the trustee of any school township, and the superintendent of any school, are hereby required to enforce the provisions of this act by suspending, or, if necessary, expelling a pupil in any elementary or high school who refuses or neglects to obey such rules or regulations or any of them. (§6585.)

[Acts 1911, p. 641. Approved March 6, 1907.]

171. Night School. 1. In all cities having a population of three thousand, or more, according to the last preceding United State census the school trustees of such cities may keep and maintain a night school, between the hours of seven and nine and a half o'clock p. m. during the regular school terms, as a part of the systems of common schools whenever twenty or more inhabitants of such city having children between the ages of fourteen and twenty-one years of age, or persons over the age of 21 years of age, and who by reason of their circumstances, are compelled to be employed or have their children employed during the school days to aid in the support of such families who desire to and who shall attend such school, shall petition such school trustees so to do. (§6486.)

172. Who May Attend. 2. All persons between the ages of fourteen and thirty, who are actually engaged in business or at labor during the day, shall be permitted to attend such school. (§6487.)

CHAPTER VIII.

Military Training.

Sec.		Sec.	
173.	Payments from special school fund authorized.	174.	Military instructors may act as physical directors.
		175.	Military training not compulsory.

[Acts 1917, p. 150. Approved March 5, 1917.]

173. Payments from Special School Fund Authorized. 1. That whenever a system of military instruction shall have been instituted in a high school of any city or town in this state in such form as to authorize such school to receive arms, ammunition and equipment from the United States government, pursuant to regulations adopted by the war department, it shall be lawful for the school trustees or school commissioners of such school city or school town to pay out of the special school fund thereof freight charges on arms, ammunition and equipment issued by the national government from the place of issue to such school, insurance charges on such government property, and the premiums on bonds to cover the care, safe keeping and return of such government property, authority to execute such bonds being hereby vested in such trustees or commissioners; to pay for the construction of arms racks, and other facilities for the care and preservation of such arms and equipment, scaling walls, indoor targets and such other equipment as in the opinion of the school board is necessary to the system of military instruction.

174. Military Instructors May Act as Physical Directors. 2. Whenever any such system of military training shall have been established in any city or town, and no military instructor has been detailed to such school by the national government, or, where a detail has been made and additional military instructors are necessary, the board of school trustees or school commissioners of such school city or school town may employ suitable and competent persons as military instructors, who shall receive pay as in the case of other instructors in such school. No person shall be deemed suitable and competent for such purpose unless he shall hold a certificate of eligibility issued by the state board of education upon examination conducted by a board of three military officers, at least one of whom shall be duly commissioned in the regular army of the United States: *Provided, however*, That the same person may act as physical director and military instructor in any school when he is qualified to perform the duties of both.

175. Military Training not Compulsory. 3. Nothing in this act contained shall be construed to authorize compulsory military training in any of the schools of this state, or abridge the right of the authorities of any school to make proper rules and regulations for the government of its student body. *Provided*, That no system of military training or education shall be instituted or carried on in any school in the State of Indiana, unless the same be under the supervision of an instructor detailed for that purpose by the federal government, or a competent and qualified instructor under the provisions of this act.

CHAPTER. IX.

School Property.

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176. Title to School Property. 157. The title to all lands acquired for school purposes shall be conveyed to the township, incorporated town, or city for which it is acquired, in the corporate name of such township, town or city, which is used for school purposes, for the use of common schools therein. In all cases in which the title to any such land is vested in any other person or corporation than as above provided, it shall be the duty of the trustee for school purposes of the township, town, or city, to procure the title to be vested as in this section provided. (§6609.)

1. Where a new school corporation is formed within the limits of another, the new corporation becomes vested with the title to the school property within its boundaries.—School Town v. Plain School Twp., 86 Ind. 582; School Twp. v. School Town, 109 Ind. 559.

2. One school corporation can not own property within the limits of another school corporation.—State v. Shields, 56 Ind. 521.

3. If a portion of a school township is annexed to a city, the school property included within such annexed portion will remain the property of the school township.—Pickert v. City of Peru, 60 Ind. 473.

177. Use of Schoolhouse for Private School. 158. When a school house is unoccupied by a common school of the state, and the people who form the school at such house desire that a private school be taught therein, and a majority of them make application to the trustee having charge of such house for the use of it for such private school, it shall be the duty of the trustee to permit said school house to be used for such private school by such teacher as may be mentioned in the application, but not for a longer time than until said house may be wanted for a public school; and such permission and use shall be upon the condition that the teacher employed in said school shall report, in writing, to the trustee—

First. The number of teachers employed, distinguishing between male and female.

Second. The number of pupils admitted into the school within the term, and the average daily attendance.

Third. The cost of tuition, per pupil per month, in said school. (§6613.)

[Acts 1859, p. 181. Approved March 3, 1859.]

178. Use of Schoolhouse for Other Purposes. 6. If a majority of the legal voters of any school district desire the use of the schoolhouse of such district for other purposes than common schools, when unoccupied for common school purposes, the trustee shall, upon such application, authorize the director of such school district to permit the people of such district to use the house for any such purpose, giving equal rights and privileges to all religious denominations and political parties, without any regard whatever to the numerical strength of any religious denomination or political party of such district. (§6614.)

1. Use of the Schoolhouse. The trustee, upon application of a majority of the legal voters of a school district, may authorize the director to permit the use of the house for other than school purposes, and a complaint to enjoin such use must aver that a majority of the legal voters of the district have not expressed a desire therefore.—Hurd v. Walters, 48 Ind. 148.

2. Schoolhouses can not be used for any purpose other than for schools during school terms, and such use may be enjoined.—Baggerly v. Lee, 37 App. 139.

[Acts 1913, p. 947. In force March 18, 1913.]

179. Schools—Buildings Used for Public Gatherings. 1. That upon application of not less than one-half of the voters residing within two (2) miles of any school house or other public buildings or grounds, which are capable of being more widely used as public meeting places for non-partisan gatherings of citizens, for the presentation and discussion of public questions or for other civic, social or recreational activities, the township trustee or other authorities having charge of such schoolhouses, public buildings or grounds shall allow the use of such buildings or grounds for the open presenta-

tion and free discussion of public questions, and may allow the use of such buildings or grounds for such other civic, social and recreational activities as in the opinion of the controlling board do not interfere with the prime purpose of the building or grounds. (§6614b.)

180. Buildings to be Lighted and Heated. 2. Where the citizens of any community are organized into a non-partisan, non-sectarian, non-exclusive association for the presentation and discussion of public questions, the school board or other body having charge of the schoolhouses or other public properties which are capable of being used as meeting places for such organization, when not being used for their prime purpose, shall provide, free of charge, light, heat and janitor service, where necessary, and shall make such other provisions as may be necessary for the free and convenient use of such building or grounds, by such organization for weekly, bi-weekly or monthly gatherings at such times as the citizens' organizations shall request or designate. (§6614c.)

181. Control of School Board. 3. The school board or other board having charge of the school houses or other public properties, may provide for the free and gratuitous use of the schoolhouses, or other public properties under their charge for such other civic, social and recreational activities, as in their opinion do not interfere with the prime use of the buildings or properties. (§6614d.)

182. Responsibility for Damages. 4. The person or persons making application for the use of a schoolhouse or other public property for public meetings, shall be responsible for all damage to the property occuring at such meetings, ordinary wear and tear excepted, and upon failure of the responsible person or persons to respond in damages for any such injury to the property, the school board or other board in charge of the schoolhouse or other public property, may refuse all future applications for the wider use of the property until such injury is repaired, without expense to the board in charge of the property. (§6614e.)

[Acts 1865, p. 3. Approved March 6, 1865.]

183. Schoolhouse, When Sold. 149. The proper trustee may, whenever a schoolhouse shall have been removed to a different location, or a new one erected for the school in a different place, if the land whereon the same is situated belongs unconditionally to the township, town or city, sell the same, when, in his opinion, it is advantageous to the township, town or city, so to do, for the highest price that can be obtained therefor; and upon the payment of the purchase money to the township, town or city treasurer, he shall execute to the purchaser a deed of conveyance, which shall be sufficient to vest in such purchaser all the title of such township, town or city thereto. The money derived from such sale shall be a part of the special school revenue. (§6615.)

[Acts 1907, p. 575. Approved March 12, 1907.]

184. Sale of School Property by Township Trustee. 1. In all cases where school properties have not been used and occupied for school purposes for a period of two years, or are unnecessary by reason of the construction of other school houses, and the said school property shall belong unconditionally

to the township, the proper trustee may, upon petition signed by two-thirds (2-3) of the qualified voters of the school district wherein said property is situated, sell the same for the highest price that can be obtained therefor, but not less than two-thirds of its appraised value, and upon the payment of the purchase money to the township trustee, he shall execute to the purchaser a deed of conveyance, if of real estate, and a bill of sale if of building or buildings, which shall be sufficient to vest in such purchaser all the title of such township thereto. Such sale shall be made only after said property has been duly appraised by three disinterested householders of the neighborhood, as other property is required to be appraised, and the publication of notice of the sale thereof for three successive weeks in a newspaper of general circulation printed and published in the township, if any, otherwise in such paper printed and published in the township nearest thereto, and by posting five (5) notices of such sale in the township, three of which shall be in the district wherein said property is situated, at least three weeks prior to the date of such sale. The money derived from such sale shall be a part of the special school revenue, and shall be duly reported and accounted for by such trustee. (§6616.)

1. CONVEYANCES. A deed to the school township for the use of the township for school purposes is an absolute and not a conditional conveyance; and the township may sell the property so deeded. The deed of the township should be made in the name of the school township, and signed by the trustee. School boards of cities and towns may sell and convey a school lot upon the conditions named in this section.

[Acts 1913, p. 594. Approved March 13, 1913.]

185. Schools—Old School Buildings—Tearing Down. 1. That whenever any city or town having title to real estate by purchase, gift or otherwise, for school purposes within such city or town, upon which real estate there is situate a public school-building or other buildings, connected therewith, which are in bad repair or otherwise insufficient to meet the necessary requirements for the full enjoyment and advancement of proper educational uses and activities, and should it now, or hereafter, be deemed by said board of trustees necessary for said school city or school town to tear down or otherwise remove such school-building or buildings connected therewith, and in lieu of the use of them or any one of them construct new public school-buildings or other buildings connected therewith, upon the real estate occupied by said old and insufficient school building or other buildings connected therewith, the trustees of school cities of incorporated cities and trustees of school towns of incorporated towns of the State of Indiana, are hereby authorized and empowered to tear down or otherwise remove any such old and insufficient school-building or other buildings connected therewith, for the purpose of erecting upon said real estate a new school-building, or other buildings connected therewith in lieu of those removed or torn down. (§6563a.)

186. Sale of Old Buildings—Use of Old Material. 2. Boards of trustees of school cities and boards of trustees of school towns are hereby authorized, should said board of trustees deem it most advantageous to said school city or school town to do so, to sell at private sale said old and insufficient school-building or other buildings connected therewith in all cases where it is necessary in order to meet the requirements for the enjoyment and advance-

ment of proper educational uses and activities, to erect new school-buildings or other buildings connected therewith upon the real estate occupied by said old and insufficient school-building or buildings. Before the sale of any such building or buildings shall be authorized however, said board of school trustees shall cause said building or buildings to be appraised at a fair cash value by two reputable resident householders and free holders of the school city or school town offering said building or buildings for sale, and said appraisement shall be made under oath and spread of record upon the records of said board of trustees, and no sale shall be made for less than the appraised value, and for cash, and the same shall be applied to the payment of the cost of the new building or buildings proposed to be constructed. The board of trustees as aforesaid, shall also cause a notice to be given reciting therein the terms, time and place of sale, and a general description of the building or buildings to be sold by publishing the same once each week for a period of two consecutive weeks in some newspaper of general circulation printed and published in the city or town where said building or buildings are for sale. If no such newspaper be published in said city or town, then by publishing said notice for a like period of time in any newspaper of general circulation printed and published in the county where said building or buildings are for sale. If no newspaper be printed or published in the county then by publishing said notice for a like period of time in any newspaper, if any, circulating in said city or town, and in addition thereto by posting a written or printed notice in five different public locations in said city or town where said building or buildings are for sale: *Provided, however,* The board of trustees of school cities and boards of trustees of school towns may, if they deem it most advantageous to said school city or school town to do so, incorporate all or any part of the material constituting said old or insufficient school-building connected therewith as a part of the plans and specifications used or to be used by said board of trustees in the construction of said new school-building or other building connected therewith, and the value of said old material so incorporated as aforesaid, shall be taken into consideration and finally determined in the submission of bids for the construction of said new school-building or other buildings connected therewith, by the person or persons, firms or corporations making sealed proposals for the construction of said building or buildings, as aforesaid, and all of said sealed proposals shall be based upon the quantum of material constituting said old building or buildings incorporated as aforesaid, in the plans and specifications ultimately adopted by said board of trustees for the construction of said new building or buildings; and the notice given to all contractors for sealed proposals for construction, and the award of the contract thereto, and the contract entered into by and between the successful bidder or bidders and said board of trustees for the construction of said new school-building or other buildings connected therewith shall so provide: *And, Provided, further,* Said board of trustees of such school cities and school towns shall also be empowered in cases of repairing and remodeling old and insufficient school-building or other buildings connected therewith to also incorporate the old material, in whole or in part, constituting said building or buildings in the specifications for the repairment or remodeling of such buildings or building as hereinbefore provided; or should it be deemed more advantageous to said school city or school town, said board of trustees in cases of repairment or remodeling as aforesaid, may

sell said old material, in whole or in part, which sale shall be governed by the provisions of this act as hereinbefore provided. (§6563b.)

[Acts 1893, p. 17. Approved Feb. 7, 1893]

187. Changing Site of Schoolhouse. 1. Whenever it becomes necessary for the trustee of any township in this state to change and re-establish the site of any school-building and remove said building to a new site and location therefor, such trustee shall first present to the county superintendent of schools of the county in which such township is situated, a petition setting forth therein the place and particular point to where it is desired to change and relocate the site of any such building, and to remove the same thereto, together with a brief statement of the purposes and reasons for such proposed change of location of said school building, and upon such petition shall first procure an order from such county superintendent, authorizing him to change the site and location of such school-building, and remove said building to its new site and location: *Provided*, That said petition shall be signed by said trustee and the majority of the patrons of the school where said building is located, and satisfactory proof shall be made to said county superintendent that the persons signing said petition constitute a majority of the patrons of said school. (§6417.)

1. Under this act, a schoolhouse can be removed and relocated at a different place only with the concurrence of the township trustee, a majority of the patrons of the school, and of the county superintendent of schools.—Carnahan v. State, 155 Ind. 156.

2. The only manner of reviewing the action of the trustee as to the location of a school house is by an appeal from his decision.—Braden v. McNutt, 114 Ind. 214; State v. Schruetzer, 156 Ind. 528; State v. Black, 166 Ind. 138.

3. The decision of a school superintendent as to the location of a schoolhouse is binding on the trustee.—Knight v. Woods, 129 Ind. 101.

4. Mandamus will not lie to compel a township trustee to locate a school and build a school house.—State v. Black, 166 Ind. 138.

5. In order to obtain the removal and relocation of a school house, the township trustee and a majority of the school patrons of the district must join in a petition to the county superintendent for such purpose.—Brandt v. State, 171 Ind. 288.

6. The patrons of a school who may sign a petition for the removal and relocation of a schoolhouse are the legal patrons living in the school district and who were enumerated in April of the year in which the petition is signed, or who are proved to be such patrons although not enumerated.—Willan v. Richardson, 51 App. 102, 98 N. E. 1094.

188. Notice of Petition to Change. 2. Before such county superintendent shall grant such order such trustee shall make and file with said superintendent his affidavit that he has caused notice to be given of such petition, the purposes thereof, the place of the change of location of such school building, and the time when the same will be presented to the said county superintendent by posting notices in not less than five public places in his township, three of which shall be in the immediate neighborhood from where such school building is to be removed, at least twenty days prior to the time when the same is to be heard by said county superintendent. (§6418.)

189. Penalty. 3. The trustee of any township in this state violating the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than fifty nor more than five hundred dollars. (§6419.)

[Acts 1893, p. 194. Approved March 3, 1893.]

190. Schoolhouse in Annexed Territory. 1. Whenever there has been, or may hereafter be, by proper proceedings, any territory annexed to any city or incorporated town of this state, which territory included within such boundary as annexed any real estate which, prior to such annexation, was the property of the school township adjoining such town or city, and used for school purposes by such school township, such real estate shall, by virtue of such annexation, at once become in fee simple the property of the school corporation of such town or city within the corporate boundaries of which it is found after such annexation of territory, and it is hereby made the duty of the township trustee to at once execute and deliver to the school corporation of such town or city a deed conveying such title as his school township has for all school property which has passed, by such proceedings, from the territorial jurisdiction of the township to that of a town or city. (§6611.)

1. SECTION VALID. The above section is valid, even if the old township is in debt for the school house, and the annexing city or town is not bound to contribute to the payment of the debt. If the township trustee refuses or neglects to convey the property to such annexing city or town he may be compelled to do so by mandate of the courts.—Board v. Center Township, 143 Ind. 391. This decision modifies the following cases: Carson v. State, 27 Ind. 465; Heizer v. Yohn, 37 Ind. 415; State v. Shield, 56 Ind. 521; Sechert v. City of Peru, 60 Ind. 473; School Township of Leesburgh v. Plain School Township, 86 Ind. 582; School Township of Allen v. School Town of Macy, 109 Ind. 59; Newpoint Lodge v. School Town of Newpoint, 138 Ind. 141.

[Acts 1917, p. 378. Approved March 8, 1917.]

191. Annexed Territory—Assessed Valuation—Bonded Indebtedness. 1. That in all cases when any city, township or incorporated town shall annex any territory of another township, city or incorporated town, or when any town shall be hereafter incorporated in any township embracing unincorporated territory, and when the territory so annexed or incorporated shall be situated in a township, city or incorporated town having a bonded indebtedness unpaid and outstanding, the city, township or incorporated town annexing or incorporating such territory shall be liable for such proportion of such bonded indebtedness existing at the time of annexation or incorporation as the assessed valuation of the taxable property situated in such territory so annexed or incorporated bears to the assessed valuation of the taxable property of such township, city or incorporated town as shown by the last preceding assessment for taxation.

192. Schoolhouse or Property—Appraisement—Liability for Unpaid Indebtedness. 2. If a schoolhouse or schoolhouses or other school property shall be located on such territory so annexed or incorporated, such schoolhouse or schoolhouses or other school property shall be appraised at or before the time of such annexation or incorporation by three (3) disinterested persons, one (1) of whom shall be appointed by the board of school commissioners of the school city or school cities corresponding to such civil city or civil cities, one by the board of trustees of the school town corresponding to such civil town, and one (1) by the township trustee of the township within which such annexed territory is situated, and the third by the two (2) persons so chosen as the case may be, none of the persons chosen shall be residents of the township, city or incorporated town affected.

Before proceeding to the discharge of their duty each such appraiser shall take and subscribe an oath that he will honestly appraise such schoolhouse or schoolhouses and school property at its fair cash value, and such appraisers shall return their appraisement when completed to the clerk of the circuit court of the county in which such school city, school town and township are located and such appraisement shall by such clerk be filed and recorded. The appraisement of such appraisers may be reviewed by the circuit or superior court in which such proceedings may be had, on written exceptions filed by either party in the office of the clerk of the circuit or superior court, within ten (10) days after the filing of such appraisal and the court shall make such order therein as right and justice may require, by ordering a re-appraisement on good cause shown. If no such exceptions shall be filed within such period of ten (10) days such appraisement so made and recorded shall be deemed binding on such school city or school town and school township. No such appeal shall delay the annexation of such territory and the subsequent proceedings on the appeal shall only affect the amount of compensation to be allowed. Until such township, city or town school corporation shall have paid such indebtedness, it shall not be entitled to a deed therefor, and if such indebtedness is paid by said school township, town or city, such school township, town or city, shall be entitled to recover the amount so paid from said city, town or township school corporation with interest at the rate of six per cent (6%) per annum from date of payment, and on payment of such amount the said school corporation shall be entitled to a deed of such property as now by law provided, whenever any annexation of such property has been made prior to the passage of this act then liability on the part of such annexing city, town or township for any such indebtedness remaining unpaid at the time of the passage of this act, shall be under this act the same as if such annexation had taken place subsequent to the passage of this act.

[Acts 1877, p. 126. Approved March 7, 1877.]

193. Donations and Bequests. 1. Whenever any person shall give or bequeath unto trustees any sum of money exceeding five thousand dollars, for the purpose of erecting a public school building or seminary in any unincorporated town in this state, and upon the express or implied condition contained in said bequest that an amount equal thereto shall be raised by the citizens of said town or township for a like purpose, the township trustee of said township in which said town is situated shall, upon the petition of a majority of the legal voters of said township, be authorized to prepare, issue and sell the bonds of said township, to secure a loan not exceeding fifteen thousand dollars in anticipation of the revenue for special school purposes, for the purpose of complying with the condition annexed to such gift or devise —said bonds to bear a rate of interest not exceeding seven per cent per annum, payable at such time, within seven years from date, as such trustee may determine: *Provided*, That until all the bonds of any one issue shall have been redeemed, such township trustee shall not be authorized to make another issue, nor shall any such bonds be sold at a less rate than ninety-five cents on the dollar. (§6624.)

194. Petition of Majority of Voters. 2. The whole number of votes cast for candidates for congress at the last preceding congressional election

in the township shall be deemed to be the whole number of legal voters of such township, a majority of whose names shall be signed to the petition presented to such township trustee; to which petition shall be attached the affidavit or affidavits, as such trustee may deem necessary, of a competent and credible person or persons that the signature of all the names to said petition are genuine, and that the persons whose names are thereto signed are, as he believes, legal voters of such township. (§6626.)

195. Sale of Bonds. 3. The township trustee shall record such petition, together with the names attached, in the record-book of his township, and carefully file away and preserve said petition, and shall enter in such record a statement of the time when such petition was filed; and, if said trustee shall then be satisfied that said petition contains the names of a majority of the legal voters of said township, he shall then prepare, issue and sell bonds to the amount petitioned for in such petition, as provided in section 1 of this act (§6624) and shall accurately keep a record of all proceedings in and about the issue and sale of such bonds, to whom, and for what amount sold, the rate of interest they bear. and the time when they become due. (§6627.)

[Acts 1901, p. 555. Approved March 11, 1901.]

196. Donations Made to School Corporations. 1. All common school corporations of this state be and they hereby are authorized and empowered to acquire by gift, devise or bequest real estate and personal property, and any such gift, devise or bequest heretofore made is hereby legalized as fully as if made after the taking effect of this act. (§6628.)

197. Conditional Gift. 2. Any such common school corporation which has heretofore acquired or shall hereafter acquire any personal property or real estate by gift, devise or bequest, in respect of which the donor or testator at the time of making the same, has annexed or may annex conditions or directions concerning the manner in which the same shall be held, used, enjoyed or disposed of, shall hold, use, enjoy and dispose of the same agreeably to the terms and conditions so imposed by the donor or devisor. (§6629.)

198. Income from Gifts. 3. In every case where any such common school corporation has heretofore acquired or shall hereafter acquire any personal property or real estate by gift, devise and bequest in respect of which the donor or testator, at the time of making the same, has not or shall not annex conditions or directions concerning the same inconsistent with the requirements of this section, the principal of such gifts, devises and bequests shall be inviolate, but the interest, rents, incomes, issues and profits, thereof, may be expended by such school corporation. Such interest, rents, incomes, issues and profits shall not be devoted to the payment of any obligation of the corporation incurred before the property was acquired, nor to the payment of the salaries or wages of teachers, of the branches commonly and generally taught in the public schools, or for school or library officers or employes, nor to the purchase of ordinary school furniture or supplies of the character required by the corporation to be paid for from the current income or revenue coming to it from taxes or by operation of law, but the same may be devoted to any public educational or public library or kindred purpose, for which in the judgment of the managing board or trustee of the corpora-

tion adequate financial provision shall not have been made by law. If in the judgment of such board or trustee, it seems wise to invest the principal of the gift, devise or bequest in the erection or equipping, or both, of a building to be devoted to some special use of a public educational or library character, and the expressed will of the donor or testator will not thereby be violated, the principal may be so used, anything in this act to the contrary notwithstanding, but this provision shall not be construed to permit its use for the building or equipping of buildings for the ordinary graded or high schools. (§6630.)

199. Trustee for Gift—Powers. 4. If in the judgment of the board of trustees or school commissioners of any corporation coming under the terms of this act, it would be wise to appoint a trustee or trustees to hold the title to any such property, real or personal, heretofore acquired or that may be hereafter acquired by it in the manner mentioned in this act, unless the wish and will of the donor or testator expressed as aforesaid would thereby be violated, and to invest the principal and pay over from time to time only the net interests, rents, issues, incomes and profits of the fund to the school corporation for use as in this act provided, such school corporation is hereby authorized and empowered to name and appoint such trustee or trustees and to vest in him or them the title to such property subject to such trust and powers as the school corporation may impose not inconsistent with the wish or will of the donor or testator, expressed as aforesaid, or of the provisions of this act applicable to such property in case no such transfer to a trustee has been made. *Provided*, That if the managing board of such school corporation shall consist of fewer than three persons, and the school corporation elects to have the property held and managed by trustees, the corporation shall establish the terms of the trust and make the conveyance, but the trustees shall in such case be not fewer than three and shall be named and appointed by the judge of the circuit court of the county in which the school corporation is domiciled. (§6631.)

200. Identity of Gift not to be Lost. 5. It is the main purpose of this act that the identity of the principal of gifts and benefactions of friends of the state's public schools may not be lost and that the income from their investment shall be used in giving to school children and the public educational and library advantages that could not be enjoyed if only the school and library revenue and income provided by law were available, but nothing in this act shall be construed as a limitation against the investment and reinvestment either by the school corporation itself or the trustees appointed agreeably to this act, from time to time as the safety of the fund or the best interests of the corporation may to the school corporation to which it is given, seem to require. (§6632.)

[Acts 1913, p. 638. Approved March 14, 1913.]

201. Rats—Extermination—Teaching Hygiene in Schools. 1. That it shall be unlawful for any person, firm, co-partnership, company or corporation owning, leasing, occupying, possessing or having charge of any land, place, building, structure, stacks or quantities of wood, hay, corn, wheat, or other grains or materials, or any vessel or water craft, to permit the same to become rat infested, and it shall be the duty of any such person,

firm, co-partnership, company, or corporation, upon any knowledge or notice, to at once proceed and to continue in good faith to endeavor to exterminate and destroy such rats by poisoning, trapping and other appropriate means, such as may be suggested by the state board of health or the local health officers. And it shall be the duty of the trustees of the several townships and the boards of school trustees of the several cities and towns in the state, to make provisions in the public schools under their jurisdiction for the illustrative teaching of the anatomy, physiology and hygiene of the human system; the effects of alcohol and nicotine; the cause and course of consumption; the dissemination of diseases by rats, flies and mosquitoes and the effects thereof, and the prevention of diseases by the proper selection and consumption of food. (§7648j.)

1. This act consists of seven sections, the first of which is printed herein. Section 5 authorizes the Governor to designate by a proclamation "rat day."

[Acts 1889, p. 400.]

202. Schools—Buildings and Grounds for High Schools—County Commissioners Authorized to Accept. 1. That whenever any person or persons shall donate to any county of the state, any building, or buildings, together with the necessary grounds, of the value of not less than $10,000, in counties having a population of less than twenty-five thousand (25,000) and of the value of twenty thousand dollars ($20,000) in counties having a population in excess of twenty-five thousand (25,000) for the purpose of maintaining a county high school or county agricultural school therein, it shall be the duty of the board of county commissioners of such county to accept such donation for the purpose herein named. (§6868. As amended Acts 1913, p. 763.)

1. Township high schools, sections 6584a-6584c, aiding colleges and high schools by donations and appropriations, sections 6826-6843.

[Acts 1889, p. 400. Appoved March 11, 1889.]

203. Trustees of County High Schools. 2. Whenever the board of commissioners of any county shall accept any donation as provided in the preceding section of this act, it shall be the duty of the county board of education, together with the county commissioners, to meet at the auditor's office within ten days after such acceptance, and annually thereafter on the first day of May, for the purpose of electing trustees for such school. At the first of said meetings three trustees shall be elected to serve until the first, second and third annual election, respectively, to be determined by lot, and one trustee shall be elected at each annual election, to serve for a term of three years. Said persons shall constitute a board of trustees for the management of said school and before entering upon the duties of their office, shall take an oath faithfully to discharge the duties of the same. They shall meet within five days after their election at the office of the county superintendent of said county and organize by electing one of their number president, one secretary, and one treasurer. The treasurer, before entering upon the duty of his office, shall execute a bond to the acceptance of the county auditor, conditioned as ordinary official bonds, with at least two freehold sureties

who shall not be members of said board of trustees, in a sum not less than double the amount of money which may come into his hands within the ensuing year by virtue of his office. The president and secretary shall each give bond, with like sureties, in the sum of one thousand dollars; all of said bonds to be approved by the county auditor. All vacancies that may occur in said board of trustees shall be filled by the county auditor. The board of trustees shall each year, within five days after the annual election of a member, reorganize their board and execute their respective bonds for the ensuing year. Said trustees shall receive for their services such compensation as the board of county commissioners may deem just—their allowance to be drawn from the revenues of said school. (§6869.)

204. Duties of Trustees. 3. It shall be the duty of such board of trustees—

First. To levy annually a tax for the support of said county school, which tax shall be assessed and collected as the taxes for state and county revenues are assessed and collected: *Provided*, That no such tax levy, in any one year, shall exceed the sum of fifteen cents on each one hundred dollars of the taxable property in their respective counties.

Second. To take control of all property belonging to said school and to make all necessary improvements and repairs to the same; to organize such school and adopt and enforce rules for the government of the same, purchase apparatus and general supplies, employ and pay teachers, appoint superintendent, establish a course of study; to admit to such county school all pupils resident of the county who are prepared to enter the high school department of the common schools, without cost of tuition; to fix terms and rules for admitting pupils not resident of their respective counties, and to do all other necessary acts for the proper management of said school. (§6870.)

[Acts 1907, p. 114. Approved March 1, 1907.]

205. Purchase of Real Estate—Petition. 1. Whenever, in the opinion of the trustees of school corporations of any city or town, or of the township trustee of any township in the state, it shall be considered necessary to purchase any real estate on which to build a school house, or for any other purpose connected therewith, such township trustee or school trustees, or a majority of them, may file a petition in the circuit court of said county, asking for the appointment of appraisers to appraise and assess the value of said real estate. (§6633.)

206. Appraisement. 2. Upon said petition being filed, the owner or owners of said real estate, having had ten days' notice of the pendency thereof, the court shall appoint three freeholders, resident in said school corporation or said township where said real estate is situate, to appraise and assess the value thereof. (§6634.)

207. Duty of Appraisers—Payment—Title—Trial. 3. Said appraisers, before making said appraisement and assessment, shall take an oath before the clerk of said court to make a fair, true and honest appraisement of said real estate and shall then proceed to examine said real estate, hear such evidence as they may consider necessary and make report of their

appraisement to said court within five days after their appointment; and thereupon such township trustee or school trustees of such school corporation, or a majority of them, may pay to the clerk of said court, for the use of the owner or owners thereof, the amount thus assessed, and upon such payment being made and the same having been shown to the court hearing said cause, the title to said real estate shall at once vest in such school corporation or school township for said purposes, and said court shall cause said real estate to be conveyed to said school corporation or school township by a commissioner appointed therefor, and said school corporation or school township may immediately take possession of said real estate for said purpose. Upon the report of said appraisers being filed, any party to the action, within ten days, may except to the amount of the appraisement and valuation of said real estate, and a trial may be had thereon before said court as other civil causes are tried, and said court shall fix the amount of said appraisement and assessment, and any party to said action may appeal from the judgment of said court as other civil cases are appealed: *Provided*, That should said township trustee or school trustees, or a majority of them, except to the amount of the appraisement and assessment as aforesaid, the court shall convey said real estate to said school corporation or school township, and the title to said real estate shall at once vest in said school corporation or school township for said purposes, and the subsequent proceedings upon said exceptions shall only affect the amount of such appraisement and assessments. (§6635.)

208. Tender before Appraisement—Costs. 4. Before the filing of said petition said township trustee or school trustees, or a majority of them, may offer or tender to the owner or owners of said real estate an amount deemed a reasonable value therefor, and should the amount fixed by the appraisers or by the court subsequently thereto be the same or less than the amount so tendered, then said cause shall be prosecuted at the cost of the owner or owners of said real estate, and upon exception to the amount fixed by the appraisers, should said exceptor not increase the amount of said appraisement and assessment, the action on such exception shall be at the cost of such exceptor. Where no amount has been tendered by said township trustee or school trustees, or a majority of them, and no exception taken, the action shall be prosecuted at the cost of the petitioners. (§6636.)

[Acts 1915, p. 135.]

209. Schools—Transfer of Property by Civil Townships. 1. That any building or other property belonging to any civil township in this state may be conveyed to the corresponding school township in the manner prescribed in this act.

210. Transfer upon Petition. 2. In order to effect the transfer or conveyance of any building or other property from any civil township, to the corresponding school township, a petition may be filed with the board of commissioners of the county in which such civil township is situated, asking for the conveyance or transfer of such building, or other property, the nature of the building or other property to be conveyed or transferred, and the reasons for desiring to effect such conveyance or transfer. The petition shall be signed by a majority of the legal

voters resident within such civil township and shall be filed in the office of the county auditor. At the time of filing such petition, the petitioners shall give a bond with good and sufficient freehold sureties, payable to the state, to be approved by the board of commissioners, conditioned to pay all expenses in the event the board of commissioners shall fail to authorize the proposed conveyance or transfer. Immediately after such petition shall have been filed the county auditor shall give notice of the filing of such petition by causing publication: To be made once a week for two (2) consecutive weeks in one newspaper printed and published in the county and of general circulation in the county in which such civil township is situated. The board of commissioners shall hear the petition at their next regular term, and on the day designated in the notice and shall determine all matters pertaining thereto, and if such board shall be satisfied as to the propriety of granting the prayer of the petitioners, they shall so find and thereupon the trustee of such civil township shall convey such building or other property belonging to such civil township to such corresponding school township and such school township shall thereafter hold, control and manage such building or other property. All expenses incurred in the conveyance of such property, if such conveyance be authorized, shall be paid out of the general funds of such civil township.

[Acts 1903, p. 357. Approved March 9, 1903.]

211. School Property Liable for Public Improvements. 1. All common school corporations of this state shall hereafter possess the same powers and be subject to the same duties and liabilities in respect to municipal assessments for the cost of public improvements affecting their real estate that private owners of real estate possess or are subject to, and that the real estate of such corporations shall be subject to liens for such municipal assessments for public improvements in all cases where the same property would be so subject had it, at the time the lien attaches, been owned by a private owner, except that no penalty or attorney's fee in respect of any such municipal assessment shall be collectible from any such school corporation. (§6670.)

212. Former Payments Legalized—Lien. 2. Whenever any such public improvement has been heretofore made and it has been paid for by a common school corporation out of its special school revenue, the act of the corporation in making the payment is hereby validated, and in every case where such an improvement has heretofore been made, but the cost has not yet been paid, where, if the real estate had been at the time in private ownership, a valid municipal assessment lien would have existed for the cost thereof, and such a lien has been sought to be taken, which lien would, as against a private owner, be valid, the same as against such common school property, is hereby validated and made as enforceable as it would be had the property been, at the time the lien was sought to be taken, in private ownership, but no penalty or attorney's fee shall be collectible; and it is hereby made the duty of every such common school corporation to pay and discharge such lien out of the special school revenue, and not otherwise appropriated. (§6671.)

[Acts 1907, p. 340. Approved March 9, 1907.]

213. Special School Fund. 1. Whenever any township of the State of Indiana shall have collected any special school fund for the special or specific

purpose of erecting or constructing a school building and it shall have been decided by the township trustee of such township to abandon the proposed work of erecting or constructing such school building, it shall be the duty of the township trustee of such township to transfer such special school fund collected for such special or specific purpose to the township fund of such township upon the order of the advisory board of such township to make such transfer of such special school fund, and it shall be lawful thereafter to use such funds for any purpose for which the township funds of such township may be used. (§6446.)

[Acts 1891, p. 111. Approved March 5, 1891.]

214. Doors Must Swing Outward. 243. Whoever, being the owner manager, lessee, trustee, or person having the charge of any theater, opera-house, museum, college, seminary, church, schoolhouse, or other public building, refuses or neglects to cause all the doors thereof, constructed for the purpose of ingress and egress, whether inner or outer doors, to be so hung that the same shall swing outwardly, shall be fined in any sum not exceeding one thousand dollars nor less than ten dollars, to which may be added imprisonment in the county jail for any period not exceeding six months: *Provided*, That this section shall not apply to the outer doors of one-story churches and schoolhouses. (§2688.)

215. Schools—Sanitary Buildings. 1. That after the going into effect of this act all schoolhouses which shall be constructed or remodeled shall be constructed in accordance and conform to the following sanitary principles, to wit:

(a) Sites. All sites shall be dry, and such drainage as may be necessary to secure and maintain dry grounds and dry buildings, shall be selected and supplied. Said site and said buildings or any additions to present buildings, shall not be nearer than five hundred (500) feet to any stream or interurban railroad, or livery stable, except in the case of vocational schools, and except in cases where the limitation shall be waived on approval of the superintendent of public instruction and secretary of the state board of health; or nearer than five hundred (500) feet to any horse, mule or cattle barn used for breeding purposes; or any noise-making industry or any unhealthful conditions. And when such school building or school site is so located and established no livery stable, horse, mule or cattle barn used for breeding purposes, or any noise-making industry or any unhealthful conditions shall thereafter be constructed, erected or maintained within five hundred (500) feet of any school building, school site or school grounds. Good dry walks shall lead from the street or road to every schoolhouse and to all outhouses, and suitable playgrounds shall be provided.

(b) Buildings. School-buildings if of brick shall have a stone foundation, or the foundation may be of brick or concrete: *Provided*, A layer of slate, stone or other impervious material be interposed above the ground line, or the foundation may be of vitrified brick and the layer of impervious material will not be required. Every two-story schoolhouse shall have a dry, well-lighted basement under the entire building, said basement to have cement or concrete floor, and ceiling to be not less than ten (10) feet above the floor

level. The ground floor of all schoolhouses shall be raised at least three (3) feet above the ground level and have, when possible, dry well-lighted basement under the entire building and shall have solid foundation of brick, tile, stone or concrete, and the area between the ground and the floor shall be thoroughly ventilated. Each pupil shall be provided with not less than 225 cubic feet of space, and the interior walls and the ceiling shall be either painted or tinted some neutral color, as gray, slate, buff or green.

(c) Lighting and Seating. All schoolrooms where pupils are seated for study shall be lighted from one side only, and the glass area shall be not less than one-sixth of the floor area, and the windows shall extend from not less than four (4) feet from the floor to at least one foot from the ceiling, all windows to be provided with roller or adjustable shades of neutral color, as blue, gray, slate, buff or green. Desks and desk seats shall preferably be adjustable and at least twenty per cent (20%) of all desks and desk seats in each room shall be adjustable and shall be so placed that the light shall fall over the left shoulders of the pupils. For left handed pupils desks and seats may be placed so as to permit the light to fall over the right shoulder.

(d) Blackboards and Cloakrooms. Blackboards shall be preferably of slate, but of whatever material, the color shall be a dead black. Cloakrooms, well lighted, warmed and ventilated, or sanitary lockers, shall be provided for each study schoolroom.

(e) Water Supply and Drinking Arrangements. All schoolhouses shall be supplied with pure drinking water, and the water supply shall be from driven wells or other sources approved by the health authorities. Only smooth, stout glass or enameled metal drinking cups shall be used; water buckets and tin drinking cups shall be unlawful and are forbidden; and whenever it is practicable, flowing sanitary drinking fountains which do not require drinking cups shall be provided. All schoolhouse wells and pumps shall be supplied with troughs or drains to take away waste water, and under no conditions, shall pools or sodden places or small or large mudholes be allowed to exist near a well. When water is not supplied at pumps or from water faucets or sanitary drinking fountains then covered tanks or coolers supplied with spring or self-closing faucets shall be provided.

(f) Heating and Ventilation. All schoolhouses hereafter constructed or remodeled, shall be supplied with heating and ventilating systems. Fresh air shall be taken from outside the building and properly diffused without draughts, through each schoolroom during school session. Each schoolroom shall be supplied with foul air flues of ample size to withdraw the foul air therefrom at a minimum rate of eighteen hundred (1,800) cubic feet per hour for each two hundred and twenty-five (225) cubic feet of said schoolroom space, regardless of outside atmospheric conditions; and heaters of all kinds shall be capable of maintaining a temperature of seventy (70) degrees Fahrenheit in all schoolrooms, halls, office rooms, laboratories and manual training rooms, in all kinds of weather, and maintaining in each school room a relative humidity of not less than forty per cent: *Provided,* That when artificial ventilation, by use of fan or blower, is adopted, the provision as to entrance of resh air shall be from outside of the building.

It is hereby made lawful for any township trustee, board of school trustees and boards of school commissioners to establish and maintain open air schools, and when such open air schools are established the provisions of this act governing heating and ventilation shall not apply to such open air school rooms.

(g) Water-Closets and Outhouses. Water-closets, or dry closets when provided, shall be efficient and sanitary in every particular and furnished with stalls for each hopper or place; and when said water or dry closets are not provided, then sanitary outhouses, well separated for the sexes, shall be provided. Good dry walks shall lead to all outhouses and screens or shields be built in front of them. Outhouses for males shall have urinals arranged with stalls and with conduits of galvanized iron, vitrified drain pipe, or other impervious material, draining into a sewer vault or other suitable place approved by the health authorities. Any agent, person, firm, or corporation, selling, trading or giving to any township trustee, school trustee or board of school commissioners, any materials, supplies, sanitary apparatus or sytems, which when constructed or remodeled or installed, in or for any schoolhouse, hereafter constructed or remodeled, which does not in all respects comply with the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not more than five hundred dollars ($500.00), to which may be added imprisonment in the county jail for any determinate period not more than six (6) months and shall be punished by a further fine of not less than five dollars ($5.00) for each day he shall fail to comply with any order of any court having jurisdiction for the correction of any such defects in such schoolhouses hereafter constructed or remodeled; and any money claim for the construction or remodeling, or for any materials, supplies, sanitary apparatus or systems furnished or constructed in or for any schoolhouse hereafter constructed or remodeled, which does not in every way and in all respects comply with the requirements of this act, shall be null and void. (Acts 1915, p. 94.)

The act of 1911, prohibiting the erection of schoolhouses nearer than 500 feet of a steam railroad, applies only to sites that are acquired after the taking effect of the act.—School Corporation v. Heiney, 178 Ind. 1; 98 N. E. 628.

[Acts 1911, p. 118.]

216. Temperature—Uncleanliness—Teachers—Penalties. 2. Whenever, from any cause, the temperature of a school room falls to 60 degrees Fahrenheit or below, without the immediate prospect of the proper temperature, namely, not less than 70 degrees Fahrenheit, being attained, the teacher shall dismiss the school until the fault is corrected; and it shall also be the duty of all teachers to immediately send home any pupil who is perceptibly ill in any way, or who is unclean and emits offensive bodily odors or who is infested with lice or other vermin; and the truant officer shall arrest and prosecute parents or guardians who do not rid their children of vermin and bodily uncleanliness, when notified to do so. Refusal of parents or guardians to free their children or wards of vermin or to bathe and cleanse them, making them fit to go to school, shall be punished by a fine of not less than five dollars and imprisonment for ten days or both. And if the refusal or neglect of parents or guardians to bathe and cleanse their children or wards makes it necessary, then the truant officer, upon order of the school

authorities, shall have it done, the cost to be paid by the school authorities from the school funds. Whenever diptheria, scarlet fever or other contagious and infectious diseases break out in any school, it shall be the duty of the township trustee, school board, school trustee, or the school authority or authorities having control, to have medical inspection made of the pupils, and all found in any degree ill, shall be sent home and there retained until the local health officer gives a certificate of health, then such child may be again admitted to school. It shall be unlawful for school authorities to employ teachers or janitors who are not able-bodied or who are addicted to drugs or intemperate or who has tuberculosis or syphilis. All school houses shall be specially cleaned and disinfected each year, before they are used for school purposes. The cleaning shall consist in first sweeping, then scrubbing the floors, washing the windows and all woodwork, including the wooden parts of seats and desks, and the disinfecting shall be done in accordance with the rules of the state board of health. Township trustees, school boards and boards of school commissioners who neglect or refuse to obey the provisions of this section, shall be fined in any sum of not less than ten nor more than one hundred dollars, and each said refusal or neglect shall constitute a separate offense. (§6616b.)

217. Hygiene and Sanitary Science—Printed Data. 3. There shall be taught in each year in the fifth grade of every public school in Indiana, the primary principles of hygiene and sanitary science, and especially shall instruction be imparted concerning the principal modes by which each of the dangerous, communicable diseases are spread, and the best sanitary methods for the restriction and prevention of each such disease. Hygiene may also be taught in other grades at the will of school authorities. The state health commissioner and the state superintendent of public instruction shall jointly write, compile or originate printed data in leaflet form, setting forth as plainly as possible, the primary principles of hygiene and sanitary science, and information concerning the prevention of diseases, and supply the same to all county superintendents, and said superintendents shall supply all the schools in their respective counties and see to it that teachers do not fail to comply with this section: *Provided*, That for all cities and towns having school superintendents, the said leaflets and pamphlets shall be sent direct to such superintendents, who shall see to it that teachers comply with this section. The state printing board shall publish from its funds all health leaflets or pamphlets as are herein provided for, and shall also pay the cost of distribution of the same to the county, city or town superintendents, from the state printing funds. (§6616c.)

218. Schools—School Officers—Powers 4. For the purpose of enforcing this act and making it practical, township trustees, boards of school trustees and boards of school commissioners shall have the power, and it is herewith made lawful for said trustees and said boards to make a levy not to exceed fifteen cents (15 cents) on each one hundred dollars ($100), the sum thus raised to be added to the special school fund, but to be used only for building and furnishing of schoolhouses. This levy shall not be made unless plainly necessary. (§6616d.)

[As amended, Acts 1913, p. 71.]

219. Penalty as to Officers. 5. Any township trustee or the members of any board of school trustees or any teacher or any person who violates any provision of this act, except as herewith or otherwise provided, shall upon conviction, be fined not less than $50.00. (§6616e.)

[Acts 1911, p. 141. Approved March 2, 1911.]

220. Buildings in Towns—Use by Township. 1. Whenever the owner of a school building located in an incorporated town tenders the use of the same for school purposes for the school year to the trustee of the township within which it is located without any charge or expense other than keeping the same in proper repair and condition during such school year, such trustee if he deem the use of such school building suitable and convenient may use the same for school purposes in the same manner as township school buildings are now used and the employment and paying of teachers, the admission of pupils, and conducting school in said building, and the care thereof shall be governed by the laws applicable to township schools located without such towns. (§6614a.)

[Acts 1909, p. 302. Approved March 6, 1909.]

221. Buildings—Fire—Means of Escape. 1. Every building now or hereafter used in whole or in part as a public building, public or private institution, sanitarium, surgical institute, asylum, school house, dormitory, church, theater, public hall, place of assemblage or place of public resort, and every building in which persons are employed above the second story in a factory, workshop, or mercantile or other establishment, and every hotel, family hotel, apartment house, boarding house, lodging house, club house or tenement house, in which persons reside or lodge above the second story, and every factory, work hop, mercantile or other establishment of more than two stories in height, shall be provided with proper ways of egress or means of escape from fire, sufficient for the use of all persons accommodated, assembled, employed, lodged or residing in such buildings, and such ways of egress and means of escape shall be kept free from obstruction, in good repair and ready for use at all times, and all rooms above the second story in such building shall be provided with more than one way of egress or escape from fire, placed as near as practicable at opposite ends of the room and leading to fire escape on the outside of such building or to stairways on the inside, provided with proper railings. All outside doors subject to the provisions of this section shall open outward, and all windows open outward or upward. No chairs or seats shall be allowed in the aisles or passways of such building during any entertainment or service, or when people are assembled therein, and no one shall interfere with any peace officer in attempting to enforce the provisions of this act. The proscenium, or curtain opening, of all theaters shall have a fire-resisting curtain of some incombustible material, and such curtain shall be properly constructed and shall be operated by proper mechanism. The certificate of the fire chief of the city where said building is located, certifying that the provisions of this act have been complied with, shall be prima facie evidence of a compliance with such requirements. (§3841.)

222. Fire Escapes. 2. In addition to the foregoing means of escape from fire, all such buildings as are enumerated in section 1 of this act as are more than two stories in height shall have one or more fire escapes on the outside of said building, as may be directed by the fire chief aforesaid, except in such cases as said fire chief may deem such fire escape to be unnecessary in consequence of adequate provisions having been already made for the [sic] safety in event of fire, and in such cases of exemption the said fire chief shall give the owner, lessee or occupant of said building a written certificate to that effect and his reasons therefor, and such fire escapes as are provided for in this section shall be constructed according to specifications issued by [the] state department of inspection and accepted by the chief inspector, or approved by the fire chief, and shall be connected with each floor above the first, well fastened and secured by extending the bolts or fastenings entirely through the walls, and of sufficient strength, each of which fire escapes shall have landings or balconies guarded by iron railings not less than three feet in height, and embracing one or more windows at each story and connecting with the interior by easily accessible and unobstructed openings; and all the balconies or landings shall be connected by iron stairs, placed at a slant of not more than forty-five degrees, protected by a well secured hand rail on both sides, with a sixteen-inch-wide drop ladder from the lower platform, reaching to the ground; except in cases of school buildings iron stairs shall extend to a ground landing, and no telegraph, telephone, electric light poles, trees or wire, signs or other obstructions shall interfere with the construction and use of any fire escape. (§3842.)

223. Plan of Escapes—Approval. 3. Any other plan or style of fire escape shall be sufficient if approved by the chief inspector, but if not so approved the chief inspector may notify the owner, proprietor or lessee of such establishment or of the building in which such establishment is conducted, or the agent or superintendent, or school officer, or either of them, in writing that any such plan or style of fire escape is not sufficient, and may by an order in writing, served in like manner, require one or more fire escapes as he shall deem necessary and sufficient to be provided for such establishment at such location, and [of] such plan and style as shall be specified in such written order. Within twenty days after the service of such order the number of fire escapes required in such order for such establishment shall be provided therefor, each of which shall be of the plan and style in accordance with the specifications in said order required. The windows or doors to each fire escape shall be of sufficient size and be located, as far as possible, consistent with accessibility from the stairways and elevators, hatchways or openings, and the ladder thereof shall extend to the roof. Stationary stairs or ladders shall be provided on the inside of such establishment from the upper story to the roof as a means of escape in case of fire. (§3843.)

224. Penalties. 6. The owner or owners of any hotel designated in this act, whether individual, firm or corporation, or the lessee or occupant thereof, or any school officer having charge of public property, who neglects or refuses to comply with any of the provisions of this act, shall be deemed guilty of a misdemeanor and punished by fine not exceeding two hundred dollars ($200), to which may be added imprisonment in the county jail of [for] not less than one month, or [nor] more than six months; and in case of

fire occurring in said building or buildings in the absence of such fire escape, or escapes, the said person or persons or corporation or public officials shall be liable in an action for damages with a penalty of five thousand dollars ($5,000) for the life of each person killed, in case of death, or for damages for personal injuries sustained in consequence of such fire breaking out in said building, and shall also be deemed guilty of a misdemeanor punishable by imprisonment for not less than six months nor more than twelve months in the county jail, and said action for damages may be maintained by any person now authorized by law to sue as in other cases of similar injuries. (§3846.)

225. Inspectors—Duties—Penalty. 7. It is hereby made the duty of the chief inspector or his deputies or their assistants in every city or town where there are fire companies, and every township trustee in townships where there are buildings coming under the provisions of this act and where there are no fire chiefs in said township, to see that the provisions of this act are enforced, and for this purpose they or their assistants or deputies shall have free access at all hours to all buildings embraced herein. If at any time any fire chief is informed by any person or has knowledge that any owner or owners of any hotel or lodging house, as above provided, has not complied with the provisions of this act, he or they shall at once give written notice to said owner or owners of said hotel or lodging house to comply with the terms of this act, and if at the expiration of thirty (30) days said owner or owners, as aforesaid, shall not have complied with the provisions of this act, said fire chief or trustee shall institute proceedings in any court of competent jurisdiction against said owner or owners of said hotel or lodging house: *Provided, however*, That nothing contained herein shall prevent any citizens of said State of Indiana from instituting proceedings against said owner or owners of any hotel or lodging house if said person [or persons] charged with the duty of enforcing this act shall fail or refuse to do their duty: *Provided*, That if [the] owner or owners of any such building fail to comply with the provisions of this act, the fire chief or trustee, after thirty (30) days' notice to the occupants of said building, may proceed to furnish and equip such building with fire escape and all the necessary ropes and appliances for the protection of human life, as provided in section 5 of this act, and shall make a sworn statement of the cost of said improvement and file same with the recorder of the county wherein the said building is situated, and the amount of said claim shall be a lien on said property and shall be foreclosed as mechanic's liens are foreclosed, and shall be governed by the same rules relating thereto. Said sworn statement shall be filed by said fire chief or trustee within sixty (60) days from the time that said work of equipping such building is completed. Any fire chief or other officer or persons charged within [with] the duties imposed upon such chief in this act, who shall wilfully or negligently fail to do his [their] duty in compliance with the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty dollars ($20) nor more than one thousand dollars ($1,000). (§3847.)

226. Township Trustee—Duties. 9. In all places where there is no fire chief the trustee of the township wherein any such buildings are situated, as in this act provided and described, shall do and perform all the duties

otherwise required of said fire chiefs, and be subject to all penalties provided in this act. (§3847b.)

227. State Fire Marshal—Schools—Teachers—Compulsory Fire Drill. 14. It shall be the duty of the state fire marshal, his deputies and assistants to require teachers of public and private schools and educational institutions to have one fire drill each month and to keep all doors and exits unlocked during school hours. (§7441n.)

228. Penalty. 15. Any officer referred to in this act who neglects to comply with any of the requirements hereof shall be guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars, for each neglect or violation and in default of the payment thereof shall be imprisoned not to exceed thirty days. (§7441o.)

229. Fines Paid to State Treasurer. 16. All penalties, fees or forfeitures collected under the provisions of this act shall be paid into the treasury of the state for the benefit of the state fire marshal fund. (§7441p.)

[Acts 1917, p. 92.]

230. Fire Drills—Report. 1. That it shall be the duty of all boards of school trustees, boards of school commissioners and township trustees, and all teachers in the public schools of this state where any such schools have more than one room, to give at least one (1) fire drill during each month such school is in session. It shall be the duty of the superintendents or principals of such schools and of the individual teachers in case no superintendent or principal is employed in such schools, to certify to the city or town board of school trustees or commissioners or to the township trustee, employing such superintendent, principal or individual teachers, that fire drills have been held as above provided, before such superintendent, principal or individual teacher shall be entitled to receive his or her salary for any month.

231. Duty of School Trustees or Commissioners. 2. It shall be the duty of the board of school trustees or commissioners of the city or town, or of the township trustee, as the case may be, to require such superintendent, principal or individual teacher to file with said board or trustee a certified statement that such drills have been held as above provided before issuing warrants for the payment of such superintendent's, principal's or individual teacher's salary or any part thereof.

CHAPTER X.

TUBERCULOSIS.

SEC.
232. Tuberculosis infectious—Disease.
SEC.
233. Penalty.

[Acts 1917, p. 552.]

232. Tuberculosis Infectious—Disease. 1. That tuberculosis being hereby declared to be an infectious and communicable disease dangerous to the public health, it shall be the duty of every practicing physician in this state to report the name and address of every person known by him to be infected with tuberculosis, to the health officer of the city, town or county in which such person resides within five (5) days after such fact comes to the knowledge of the physician; it shall also be the duty of the chief officer having charge for the time being of any hospital, dispensary, asylum or other similar private or public institution to report the name, age, sex, color, occupation, place where last employed if known and the home address of every person having tuberculosis who comes under his care or under his observation within five (5) days after such fact comes to his knowledge, to the health officer of the city, town or county from which such patient comes; and it shall be the duty of every authorized school physician to report the name, age, sex, color, school and home address of every school child, teacher or school janitor, having tuberculosis, who comes under his observation in the performance of his duties in connection with the medical inspection of schools within five (5) days after such fact comes to his knowledge, to the health officer of the city, town or county in which such child, teacher or janitor resides.

233. Penalty. 6. Any physician, any chief officer having charge of any hospital, dispensary, asylum or other similar private or public institution, any authorized school physician, any city, town or county health officer, or any owner, agent or any other person violating any provision of this act shall be guilty of a misdemeanor and shall, on conviction thereof, be fined not less than ten dollars ($10) nor more than fifty dollars ($50).

CHAPTER XI.

Joint and Consolidated Schools.

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234. Joint school district—Petition.
235. Expense of establishing—Control of school.
236. Expense of maintenance.
237. Joint graded schools.
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268. Joint resolution—Special election—Expenses.
269. Majority required—Management.
270. Cost apportioned—Transportation of pupils—New building.
271. Payment of previous indebtedness.

[Acts 1901, p. 53. Approved February 28, 1901.]

234. Joint School District—Petition. 1. The trustees of two or more adjacent school corporations may establish a new school district and build a school house therein at the joint expense of their several corporations, whenever, in their judgment, it shall appear necessary for the better accommodation of the people of their respective corporations. *Provided,* That such necessity must be set forth in a petition of the persons making the request, such petition to be presented to each of said trustees. And said trustees shall, at the time agreed upon by them, not less than ten days nor more than thirty days from the time of receiving such petition, hold a joint meeting for the purpose of declaring whether such petition shall be granted and take further action as the case may require. (§6620.)

1. Note. An appeal lies to the county superintendent by the petitioners if the trustees do not grant the petition; but such superintendent can not direct one trustee, where the other disagrees with him, to make the selection of a site for the school house, nor to purchase a lot without his consent.—Henricks v. State, 151 Ind. 454. See also Henricks v. State, 156 Ind. 185.

2[illegible]5. **Expense of Establishing—Control of School.** 2. Each corpora[illegible]ion shall bear such part of the expense of establishing such joint district scho[illegible]l as the number of children of school age residing in each corporation and atta[illegible]hing themselves to said new district at the time of the formation, bears to t[illegible]e whole number of children of school age who are attached to said disrict at its formation and each corporation shall assume its share of the debt to i[illegible]urred. But when said school shall be established it shall be controlled by t[illegible]e corporation in which it is established in the manner already prescribed by [illegible]w. (§6621.)

2[illegible]36. **Expense of Maintenance.** 3. The children of school age resi[illegible]ent in a joint district already established or hereafter established shall be [illegible]dmitted to the joint school maintained therein, without transfer certific[illegible]tes or tuition charge. The trustees of the various corporations from whi[illegible]h the joint district is made shall pay such part of the cost of maintaining [illegible]he joint school as the number of pupils enrolled from each corporation bea[illegible]s to the whole number enrolled in the joint school. (§6622.)

[Acts 1873, p. 76. Approved March 8, 1873.]

2[illegible]37. **Joint Graded Schools.** 13. The school trustees of two or more dist[illegible]nct municipal corporations for school purposes shall have power to establ[illegible]sh joint graded school, or such modifications of them as may be practicable and provide for admitting into the higher departments of their graded sch[illegible]ols, from the primary schools of their corporations, such pupils as are suff[illegible]ciently advanced for such admission. Said trustees shall have the care and management of such graded schools, and they shall select the teachers therefor. They shall have power to purchase suitable grounds for such graded sch[illegible]ols, and erect suitable buildings thereon; and the title to all such property, acquired for such purposes, shall vest jointly in the corporations establ[illegible]ishing the graded schools. (§6623.)

1. Management and Supervision. A joint graded school, as to its management and teachers, is subject to the same laws, rules and regulations as a township graded school, except that it is under the joint management of the school trustees or both corporations. But the teachers should attend the institutes of the county and township in which the school is situated, and should be under the supervision of the superintendent of that county.

2. Purchase of Property. The two corporations may purchase jointly real estate; and the trustees are the sole judges of the right to purchase property of this character.—Craig School Tp. v. Scott, 124 Ind. 72.

3. Management of Joint Graded Schools. The trustees act as individual trustees, and do not as a unit represent their respective corporations. A majority of the whole board of trustees, whether such majority come from one corporation entirely, or from the different corporations interested, have the power to transact any and all business, including the employment of teachers relating to such joint graded school.—Hanover School Tp. v. Gant, 125 Ind. 557.

4. New Statute. The above section must be construed in connection with section 143.

5. Joint Graded Schools.—Appeal. An incorporated town and township can unite and establish a joint graded school, and it will not be necessary for the town to extend its limits so as to enclose the site of the school house. The town and township authorities have no power to enter into an agreement with an incorporated association for school purposes, that the three shall run and control one school, and that such association shall have equal control over the school with such town and township authorities. The control of the public school can not be fettered by any private per-

son. Possibly an appeal will lie from the decision of two township trustees refusing to build a joint graded school house. In case two township trustees of different counties are petitioned to build such a school house, the superintendent of that county to whom an appeal is first taken would have jurisdiction of the case to the exclusion of the superintendent of the other county. It is a new question, but this is my best judgment in the matter.—Baldwin, Att.-Gen.

6. Proportional Contributions. While the section that provides for the establishment of joint graded schools by two or more distinct corporations is silent as to the proportion in which each shall contribute to the expense, yet I am of opinion that their contributions should be in proportion to the number of pupils that they will each send to the new school. Such is the rule in the case of joint district schools, and I think the same reasons apply to joint schools of all kinds.

[Acts 1877, p. 125. Approved and in force March 6, 1877.]

238. Schoolhouse for Several Townships. 1. The trustees of two or more adjacent counties or townships may establish a new school district, and build a schoolhouse therein at the joint expense of their several townships, whenever, in their judgment, it shall appear necessary for the better accommodation of the people of their respective townships: *Provided*, That such necessity must be set forth in a petition of the persons making the request—such petition to be presented to each of said trustees. And said trustees shall, at the time agreed upon by them, not less than ten days nor more than thirty days from the time of receiving such petition, hold a joint meeting, for the purpose of declaring whether such petition shall be granted, and take such further action as the case may require. (§6617.)

1. Repeal. The belief has prevailed that this and the next section had been either repealed or become obsolete; but the legislature in 1903; by the enactment of section 240, below, recognized it as being still in force.

2. If one trustee purchase a schoolhouse site without the knowledge and consent of the others, the latter can not be compelled to contribute towards the construction of a schoolhouse upon such site.—Henricks v. State, 151 Ind. 454; Henricks v. State, 156 Ind. 185.

239. Cost of Erecting. 2. Each township shall bear part of the expense of establishing such joint district school as the number of children of school age residing in each township and attaching themselves to said new district at the time of the formation, bears to the whole number of children of school age who are attached to said district at its formation; and each township shall assume its share of the debt so incurred. But when said school shall be established, it shall be supported by the township in which it is established, in the manner already prescribed by law. (§6619).

1. Title Joint. The deed for the property should be in the name of all the corporations interested, but after the building is completed and paid for the partnership ceases, and the schoolhouse passes under the control of the trustee of the township within whose limits the house is situated.

[Acts 1903, p. 431. Approved and in force March 10, 1903.]

240. Advisory Board—Emergency. 1. Whenever a majority of the school patrons of two or more adjoining school districts, located in two or more adjacent townships, may heretofore have petitioned, or whenever they may hereafter petition, in substantial compliance with the provisions of section 1 of an act of the general assembly of the State of Indiana, in force March 6, 1877, being section 6001, Burns' Rev. Stat. 1901, to the trustees of said townships for the establishment of a new school district and

the erection of a joint schoolhouse for a joint or joint graded school, at the place named in said petition, for the accommodation of the school children residing in said school district, and if said trustees shall have granted, or may hereafter grant, the prayer of said petition, or if an appeal may have been taken, or may hereafter be taken, to the county superintendent, from the decision of said trustees, refusing to grant the prayer of said petition, under the provisions of section 6028, Burns' Rev. Stat. 1901, and it on such appeal said superintendent may have granted, or may hereafter grant, the prayer of said petition, then, in either of such events, an emergency shall thereby exist for the procurement of a site and the erection of such school house, as contemplated by section 8085f, Burns' Rev. Stat. 1901, and if there is no sufficient money on hand for the purpose, the trustees and the advisory boards of said townships shall proceed to raise the money necessary to meet such emergency, as provided by said section, and shall also procure the necessary site for the erection of said schoolhouse and erect and maintain the same as provided by law. (§6618.)

[Acts 1911, p. 463.]

241. **Schools—City and Township—Joint Graded School.** 1. That whenever twenty-five (25) legal voters residing in any incorporated town or city of the fifth class and twenty-five (25) legal voters residing in the same township, but outside said town or said city shall petition the school board of said town or said city and the township trustee of the township in which said town or said city is located to erect a joint school house for a joint graded school, or a joint high school, or both, or such modification thereof as may be practicable, it shall be the duty of the school trustee of said town or said city and of said township trustee or of a majority of them to call elections of the voters of the town or city and the voters of the townships residing outside of such town or city respectively, for the purpose of determining whether a majority of the legal voters of each school corporation are in favor of building said joint schoolhouse. Such elections of the legal voters of the townships outside of the town or city shall be separate and independent. Said trustees shall, upon the filing of said petition, give notice by publication, for three successive publications, in a weekly newspaper, if any, published in said township, and if no weekly is published in said township, then in the nearest newspaper published in said county, that on a day to be named by said trustees the polls will open at the several voting places in said township named in the petition for the purpose of taking the vote of the legal voters thereof upon whether such joint schoolhouse shall be built; said elections shall be held not less than ten (10) days nor more than twenty (20) days after the last publication of said notice. (§6622a.)

[As amended by Act, 1913, p. 911.]

242. **Ballots—Election Method.** 2. On the day named in said notice such polls shall be opened and the votes of the legal voters shall be taken upon the question of building such schoolhouse, and said election shall be governed by the general laws of the state, so far as they may be applicable, except as otherwise provided herein. Said trustees shall constitute

the board of election commissioners and they shall cause to be prepared and distributed proper ballots. There shall be printed on the ballots two squares and words as follows:

| YES | For building the schoolhouse.

| NO | For [Against] building the schoolhouse.

Each voter desiring to vote for the building of such joint school house shall make a cross with a pencil in the square containing the word "yes," and each voter desiring to vote against the building of such joint schoolhouse shall make a cross in the square containing the word "no." Said trustee shall appoint inspectors, judges and clerks for such elections. The votes cast at such elections shall be canvassed at the office of the township trustee on the day following said election at 10 o'clock a. m., and a certificate of the votes cast for and against the building of said school house shall be filed with said trustees. If a majority of the votes cast at each of such elections are in favor of the building of such joint school house, said trustees of said school corporations shall proceed to build the same, and the township advisory board shall make the proper appropriation for the proportionate part of the cost of said building to be paid by said township. Said trustees shall provide a suitable site for said building. (§6622b.)

243. Cost of Construction—Tax Levy—Bonds Issued. 3. The cost of the construction of such joint school house shall be borne by such school corporation in proportion to the total amount of taxable property in each of such school corporations. If such school town or school city shall not have money available to pay for its proportionate part of the cost of the construction of said joint school house, the school trustee of such town or such city may issue warrants or bonds of such corporation to meet such proportionate cost. If there are not sufficient funds available out of the annual township levy to meet the proportionate cost of said school house to be paid by such township, then the township advisory board of such township shall order bonds or warrants to be issued, and the township trustee shall issue township warrants or bonds to meet such proportionate cost to be paid by such school township. Such bonds authorized by this act shall be payable in such amounts and at such times as the trustees of said corporations respectively may determine and shall bear such rate of interest as may be determined, not exceeding four and one-half (4 1–2) per cent. (§6622c.)

[As amended by Acts 1913, p. 911.]

244. Joint Ownership of Property. 4. Any schoolhouse constructed under the provisions of this act shall be joint property of said corporations, and such property shall be owned by such corporations in proportion to the amount paid by each for the construction of the same, and said school shall be open to all pupils residing in said town or city or township free of tuition. The trustee of said school corporations shall have the control and management of said school house and school and the right to employ teachers in such

school. Neither of said corporations shall ever be deprived of its ownership in said building except upon full compensation for its proportionate interest in the same. (§6622d, as amended by Acts 1913, p. 911.)

[Acts 1917, p. 63.]

245. Towns and Townships—Power to Contract to Maintain Joint Schools. 1. That any incorporated town in this state, the inhabitants of which do not exceed two thousand (2,000) in number, as shown by the last preceding general United States census, having school indebtedness, by and through its school trustees, and the township trustee of the township wherein any such town is situate, are hereby authorized and empowered to contract with each other, on behalf of such town and such township, whenever there are no schools within such township except those wholly within such incorporated town, relative to all matters pertaining to the use of such schools by all of the inhabitants of such township, including the inhabitants of such town, and relative to all matters pertaining to the joint care, custody, repair, management, maintenance, support, conduct and control of common or grade schools and high schools located within the corporate limits of such town, and in any such contract it may be provided that the expense of such joint care, custody, repairs, management, maintenance, support, conduct and control of such schools shall be borne pro rata by such incorporated town and by such township, in such proportion as the assessed valuation of the taxable property of such township, outside of such town, bears to the assessed valuation of the taxable property within such town.

[Acts 1911, p. 475.]

246. High School District. 1. Any city or incorporated town located in any township or townships in this state and which maintains or may hereafter establish and maintain a regularly commissioned high school, easy of access and which meets the requirements for high school pupils, may establish and maintain jointly with any such township or townships contiguous thereto or any part thereof and any incorporated town located therein, a high school which will furnish adequate accommodations for the high school pupils in the territory included and the same shall be constituted and known as a high school district. (§6623a.)

247. District—Determining the Territory. 2. School commissioners, boards of school trustees, township trustees or other school officials interested may meet and determine the territory to be included in such high school district; make provisions for ample school building or buildings and equipment, and provide for the maintenance and support of such high schools as herein provided.

[Approved February 22, 1915. Acts 1915, p. 29.]

248. Schools—High School District—Control. 3. The school officials of any such township, townships and incorporated towns may authorize and enter into contract with the school commissioners or board of school trustees of any such city or incorporated town to provide such high school accommodations for a part or all of their respective townships or town

corporations by the purchase of grounds, erection of a building or buildings or by making repairs of present building or additions thereto, and by equipping the same in accordance with existing laws governing cities and towns in such procedure including the issuing of notes or bonds of their respective corporation and the payment of the same: *Provided, however*, That no contract by the school officials of any such township, townships and incorporated towns, shall be deemed to grant away their right of representation in the control and management, maintenance and up-keep of such school or schools as may be established or maintained by such contract; and be it *Provided, further*, That a board of control for such school or schools as may be established or maintained by such contract, consisting of the township trustee of each township and the president of the board of school commissioners of each city or town included in such district and a party to such contract, shall have full control and management of such school or schools as may be established or maintained by such contract, each member being entitled to an equal vote in such control and management: *Provided, further*, That in case of a tie vote on the question of management or control of such school or schools then and in that event the county superintendent of the county in which said school is located shall cast the deciding vote in such control or management.

1. The legislature, Acts 1915, p. 158, attempted to amend this section. The Act referred to, however, has no enacting clause and is therefore invalid.

249. Expenses—Apportionment. 4. The school commissioners or board of school trustees of such cities and towns shall prepare and submit annually, prior to the time for the levy of school taxes for any year, to the school officials of all interested school corporations of said high school district, an itemized statement of the cost of all expenditures for improvements and maintenance of such high school or schools for the previous year, with an itemized estimate of the cost of all proposed improvements, changes, equipment and expenses incidental thereto for the ensuing year, including any notes, bonds or interest thereon falling due and issued under any contract made under the provisions of this act, and such school officials shall meet and determine the expenditures needed and the total amount required for any unpaid obligations, improvements or requirements for the ensuing fiscal year of such high school. The total amount shall then be apportioned among the several school corporations affected or benefited thereby in proportion to the last official assessed valuation in each of said school corporations or parts thereof in said high school district. Such officials of each school corporation shall pay out of the school funds of the township the amount apportioned to their respective school corporations for the maintenance of such high school and may issue notes or sell the bonds of their respective corporations for any permanent improvements in such high school or pay the same out of the special school fund in their discretion. The school corporation shall assess such sum on the entire property within the school corporation or against the property of that part of the school corporation directly benefited. (§6623d.)

250. Warrants. 5. The amounts due from any school corporation shall be paid on warrants issued by the order of the proper officials of such

school corporation to the treasurer of the board of school commissioners or board of school trustees of such city or town and such funds shall be used only for said high school purposes, and no others. (§6623e.)

251. **Withdrawal.** 6. If any school corporation shall at any time wish to withdraw from said high school district and establish a separate high school, they shall receive from the school corporations remaining in the said district an equitable amount for their interest in the property of said high school district, to be determined by a board consisting of the county superintendent, county auditor and county assessor. The amount thereof shall be paid to the corporation and the sum shall be assessed against the remaining school corporations as other amounts are assessed. (§6623f.)

252. **Other Acts Not Repealed.** 7. It is the intent of this act that its provisions shall be additional to any statutory provisions for the establishment and maintenance of high schools. This act shall not therefore be construed to repeal, in whole or in part, any other statute having to do with the establishment, maintenance or support of public high schools, except as herein provided. (§6623g.)

[Acts 1915, p. 580.]

253. **Schools—Joint Township High Schools.** 1. That in two adjoining townships, in any county in this state, having a joint assessed valuation of more than seven hundred and fifty thousand dollars ($750,000.00) of taxable property, and wherein there is not now established, in either of said adjoining townships, or in any town or city in either of said adjoining townships, a separate high school, and in which there is not now established a joint high school for the use of said adjoining townships, and wherein, for each of the two years last past, there have been eight or more graduates of the township elementary schools residing in each of said adjoining townships, the township trustees of said adjoining townships, whenever at least one-third or more of the parents, guardians, head of families, or persons having charge of children, who were enumerated for school purposes in said township, at the last preceding enumeration, petition the trustees of said adjoining townships, to establish, erect and maintain, a joint high school building and high school, at some point within said adjoining townships, to be set out and designated in said petition, shall establish, erect, and maintain such joint high school building and high school within said adjoining townships as petitioned for, and employ competent teachers therefor.

[Acts 1913, p. 331.]

254. **Schools—Township High Schools—How Established.** 1. That in each township of this state having an assessed valuation of more than six hundred thousand dollars ($600,000) of taxable property and wherein there is not now established a high school, and wherein there is not situate a city or town maintaining a high school, and wherein for each of the two years last past there have been eight or more graduates of the township elementary schools, residing in such township, the township trustee may establish and maintain therein, a high school or a joint high school and ele-

mentary school, and employ competent teachers therefor; whenever a majority of parents, guardians, heads of families, or persons, having charge of children, who were enumerated for school purposes in said township, at the last preceding enumeration, petition the trustee of said township to establish and maintain a high school or joint high school and elementary school, said trustee shall establish and maintain such a school petitioned for. (§6584a.)

[Acts 1917, p. 677.]

255. Amount of Taxable Property Required. 2. That in each township in this state having an assessed valuation of more than six hundred thousand dollars ($600,000.00) of taxable property, and wherein there is not now established a high school in such township or in any town within such township and where there is no high school within three (3) miles of any boundary line of such township, and wherein for each of the two (2) years last passed there have been eight (8) or more graduates of the township elementary schools residing in such township, the township trustee shall establish and maintain therein a high school and employ competent teachers therefor: *Provided*, That in townships having an assessed valuation of more than twelve hundred and fifty thousand dollars ($1250,000.00) of taxable property; upon the petition of forty (40) or more parents, guardians, heads of families, or persons of such township having charge of children of school age, who were enumerated for school purposes at the last preceding enumeration, being filed with him, the township trustee shall establish and maintain in such township a high school or a joint high school and elementary school at such place as may be designated in such petition, and employ competent teachers therefor, notwithstanding there may be an established high school within three (3) miles of a boundary line of such township, *provided, further*, that in computing the distance of a boundary line of any township from any high school outside of said township, as contemplated in this section of this act, said distance shall be measured on the shortest direct line from said high school building to the boundary line of said township.

[Acts 1917, p. 52.]

256. Petition for Consolidation—Duty of Trustees. 1. That whenever the majority of patrons in two or more school districts in adjoining townships, or any designated portion of said school districts, shall petition their township trustee to abandon such school district or districts, or designated part thereof, so situate in such adjoining townships and to consolidate said district or districts, or designated part thereof, with the district or districts, or designated part thereof, in the adjoining township or townships into a single consolidated school, the township trustees of such adjoining townships shall provide for such consolidation; erect and equip the necessary school building and maintain such school jointly and apportion the cost thereof among the townships in proportion to the assessed valuation of the part of the consolidated school district lying in each township.

257. Control—Abandonment. 2. When such consolidation has been effected, the consolidated school shall thereafter be under the joint control and management of the township trustees of the townships in which

such consolidated school district is located, and such consolidated school shall not be abandoned thereafter except with the approval of the county superintendent or county superintendents of the county or counties in which such consolidated school district is located.

[Acts 1917, p. 545.]

258. Consolidation of Schools Authorized. 1. That the school trustees of any incorporated town or city of the fifth class located wholly within any township, and the school trustee of such township, are hereby authorized and empowered to consolidate the elementary schools or high schools, or both, of said corporations or to furnish consolidated school facilities for children of school age of both school corporations in the manner and upon the conditions hereinafter prescribed.

259. Elections Separate. 2. Whenever the school trustees of any city of the fifth class or incorporated town located wholly within any township and the school trustee of such township desire to consolidate the elementary schools or high schools, or both, of their respective corporations, or to furnish consolidated school facilities for the children of school age of both corporations they may meet and adopt a joint resolution declaring their willingness to consolidate the schools of said school corporations, and may call elections of the voters of said town or city and the voters of the township residing outside of such town or city, respectively for the purpose of determining whether a majority of the legal voters of each school corporation are in favor of consolidating said schools. Such elections of the legal voters of the respective school corporations shall be separate and independent. Said trustees shall, after adopting said joint resolution, give notice by publication for three (3) successive publications in a weekly newspaper, if any is published in said township or in said town or city, and if no weekly newspaper is published in said township, town or city, then in the nearest newspaper published in said county, that on a day to be named by said trustee the polls will be open in at least one (1) of the voting places in each of said corporations named in said joint resolution, for the purpose of taking the vote of the legal voters thereof upon whether the schools of said corporations shall be consolidated; said election shall be held not less than ten (10) days nor more than twenty (20) days after the last publication of said notice: *Provided*, That when twenty-five (25) legal voters residing in any incorporated town or city of the fifth class and twenty-five (25) voters residing in the same township, but outside said town or city, shall petition the school board of said town or said city and the township trustee of the township in which said town or city is located to consolidate the elementary or high schools, or both, of said school corporation, or to furnish consolidated school facilities for the children of school age of both school corporations it shall be the duty of the school trustees of said town or city, and of said township trustee, or a majority of them, to call the school elections provided for in this act.

260. Manner and Expense of Elections. 3. On the day named in said notice such polls shall be opened and the votes of the legal voters shall be taken upon the question of consolidating such schools, and said election shall be governed by the general laws of the state, so far as they may be applicable, except as otherwise provided herein. Said trustees shall constitute

the board of election commissioners and they shall cause to be prepared and distributed proper ballots. There shall be printed on the ballots two (2) squares and the words as follows: Yes. For consolidating the schools of ..... town (or city) and the schools of.....township. No. Against consolidating the schools of..... town (or city) and the schools of ..... township.

Each voter desiring to vote for the consolidation of such schools shall make a cross with a pencil in the square containing the word "Yes;" and each voter desiring to vote against the consolidation of such schools shall make a cross in the square containing the word "No." Said trustees shall appoint inspectors, judges, clerks and sheriffs for such election. The votes cast at such election shall be canvassed at the office of the school trustees of such town or city on the day following said election at ten (10) o'clock a. m. and a certificate of the votes cast for and against the consolidation of such schools shall be filed, one (1) copy with the trustees of each school corporation. If a majority of the votes cast at each of such elections are in favor of the consolidation of such schools, said trustees of said school corporations shall proceed to consolidate said schools and provide the necessary buildings and equipment therefor: *Provided*, That each school corporation shall finish and complete the current school year at the schools then in operation before changing children of school age to any consolidated school. The expense of said election shall be borne equally by each of the school corporations participating therein, and shall be paid for out of the special school fund.

261. Preliminary Control of Consolidated Schools. 4. Such consolidated schools shall be under the control and management of the trustees of the town or city, and the trustee of the township until the first day of August next succeeding the election provided for in section three (3) of this act, at which time the term of office of each of said school trustees of said town or city shall expire; and during which time said school trustees of said town, or city, and the township trustee shall have all the powers and shall perform all of the duties granted and fixed in this act; each trustee having an equal voice therein: *Provided*, That if bonds have been issued and sold for the construction of a new school building and a contract has been let for the construction thereof by the aforesaid school trustees, then said school trustees of such town or city shall continue in office one (1) year from the first day of August next succeeding the election provided for in section three (3) of this act; and the election of school trustees provided for in the next succeeding section of this act shall not take place until one (1) year has elapsed from the time provided for in said section.

262. Board of Trustees—Non-Partisan—Election Bond—Salary. 5. After the first day of August next succeeding said election provided for in section three (3) of this act, such consolidated schools shall be under the control and management of a school board composed of three (3) school trustees, residents of either the said town or city, or of the township in the territory outside said town or city, two (2) of whom shall be elected in the manner prescribed in this act. No more than two (2) members of such board shall be of the same political faith.

The board of trustees of such town, or the common council of such city, shall, at a regular meeting, or at a special meeting called for the purpose, in the month of July, prior to said first day of August, elect two (2) school trustees, one member of which board shall be a resident of said town or city, and one member of which board shall be a resident of the township in the territory outside said town or city, who shall be of opposite political faith, as members of said school board, who shall hold their offices for one (1) and two (2) years respectively, from and after the first day of the next succeeding month. The term of each of said trustees shall be determined by lot at the time of such election, by such common council or board of trustees, and annually thereafter such common council of such city, or the board of trustees of such town, at their regular meetings in the month of June, shall elect one (1) school trustee, who shall hold his office for two (2) years from the first day of the next succeeding August. The third member of said school board shall be the township trustee who together with such trustees elected by said board of trustees of such town or the common council of such city, shall constitute the school board of such consolidated schools, and before entering upon the duties of their office they shall take an oath faithfully to discharge the duties of the same. Said school board shall meet within five (5) days after the first day of August and organize, and shall reorganize at any time the personnel of said board is changed. They shall elect one (1) of their number president, one (1) secretary, and one (1) treasurer. The treasurer before starting upon the duties of his office, shall execute a bond to the acceptance of the county auditor, conditioned as an ordinary bond, with at least two (2) sufficient freehold sureties, who shall not be members of said board, in a sum equal to the maximum amount of money that will come in to his hands within any one (1) year by virtue of his office. The other two (2) members of said board shall each give bond with like sureties to be approved by the county auditor in any sum not less than one-third (1-3) of the treasurer's bond. All vacancies that may occur in said board, other than said township trustee, shall be filled by the common council of the city or the board of trustees of the town, but such election to fill a vacancy shall only be for the unexpired term. Said board of trustees shall within five (5) days after the first day of August of each year reorganize and execute their bonds for the ensuing year.

The members of said school board, other than the township trustee, shall each receive such compensation for his services as may be fixed by the board of trustees of said town, or the common council of said city, but in no event shall said trustees other than said township trustee, receive more than $100.00 per annum each for his services when appointed by the board of trustees of a town, or more than $200.00 per annum each for his services when appointed by the common council of a city.

Said township trustee shall perform the clerical work and bookkeeping for said board, for which services said township trustee shall receive in addition to the compensation received by him as township trustee the sum of $100.00 per annum when the schools of his township are consolidated with the schools of an incorporated town, and shall receive the sum of $200.00 per annum for his services when the schools of his township are consolidated with the schools of a city.

263. Duties and Powers of Board—Taxes. 6. Said school board shall perform the duties and shall have all the powers vested in the school boards of towns and cities of the fifth class under the law of this state. The cost of maintaining such consolidated schools shall be apportioned between the city or town and the township in the territory outside such city or town in proportion to the number of children of school age enumerated in each corporation. Taxes to meet such cost shall be levied by said school trustees and collected in the city or town and the township in the same manner as other taxes are levied and collected.

264. New Buildings—Repairs. 7. Whenever it shall become necessary to build a new building or buildings, or to make repairs on old ones, said school trustees shall have the power to build such new building or buildings or repair such old ones as they may deem necessary, and to purchase the necessary site therefor; and the cost thereof shall be apportioned between the city or town and the township in the territory outside of such city or town in the ratio that the taxable property of such city, or town, and the territory in the township outside such city or town bears to the whole amount of taxable property of said city, or town and township.

Said school trustees shall have the sole power to issue bonds of the separate corporations comprising said consolidated school district to meet the cost of said new building or buildings or the repair of old ones. Such bonds authorized by this act shall be payable in such amounts and at such times as the school trustees may determine, and shall bear such rate of interest as may be determined, not exceeding four and one-half per cent (4 1-2%). Said board shall have the power to levy and collect taxes to meet the payment of any bonds issued pursuant to this act: *Provided*, That said school trustees shall have all of the powers given and granted, to school trustees for the appropriation of real estate for school purposes, by chapter 87 of the acts of 1907 page 114, being sections 6633–6636 Burns' Rev. Stat. of 1914.

265. Joint Property. 8. Any schoolhouse constructed under the provisions of this act shall be the joint property of said corporations, and such property shall be owned by such corporations in proportion to the amount paid by each for the construction of the same; and said schools shall be open to all pupils residing in said town or city or township free of tuition. Neither of said corporations shall however, be deprived of its ownership in said new building or buildings except on full compensation for its proportionate interest in same; *Provided*, The school houses and school sites of either school corporation or both may be used for consolidated school purposes.

266. Transportation of Pupils. 9. Said school board shall be governed by the laws of the state now in force for the transportation of pupils to such consolidated schools: *Provided*, That if a consolidated school is maintained within the corporate limits of a city or town, then said school board shall provide and maintain means of transportation for all pupils that live at a greater distance than two (2) miles and for all pupils between the ages of six (6) and twelve (12) years that live less than two (2) miles and more than one (1) mile from and outside of the corporate limits of such city or town; *and, Provided*, That the school corporation required to transport pupils shall bear the expense of such transportation; *and, Provided, further*,

That if by reason of condition of roads or streams, or distance, it would not be advantageous for certain children of school age to be transported to any consolidated school established and maintained under this act, then said school board may maintain separate schools and provide school houses for such children so affected by condition of roads, streams, or distance to consolidated schools.

[Acts 1917, p. 61.]

267. Consolidation of Town and Township Schools. 1. That Whenever the board of school trustees having charge of the schools of any town or towns, and the township trustee of the township in which such town or towns is located, shall agree by joint resolution to consolidate the schools of such town or towns and the schools of the township, or a part of the schools of such township, such schools shall be consolidated if at an election called as provided in this act a majority of the voters of the town or towns and the township shall favor such consolidation. When there are two (2) towns in a township each convenient to a part of the township, but neither of which is convenient to the whole township, a part of the territory of the township may be joined to each. The division shall be determined by the township trustee if the people approve the same at the election as herein provided.

268. Joint Resolution—Special Election—Expenses. 2. Whenever the school board and township trustee as aforesaid shall determine by joint resolution to consolidate the schools of the town or towns and the township, they shall provide for an election and shall give notice of the time and place of such election which shall be not less than thirty (30) days from the time of such notice; the board or boards and trustee acting jointly shall designate the voting places and appoint the necessary officials in charge of such election; each elector of the town or towns or township shall be entitled to vote at such election; the results of the ballots shall be certified by the officers in charge of the election to the board or boards and to the township trustee; the expense of such election shall be borne equally from the funds of the town or towns and the township, and the same shall be paid as other expenses of the town or towns or townships are paid.

269. Majority Required—Management. 3. If a majority of the voters in the township and a majority of the voters in the town or towns favor such consolidation then the schools shall be consolidated, and shall be managed by a board consisting of the trustee of the township and the secretary of the school board of the town or towns. In case of a tie vote concerning any matter of management of such consolidated school district by this board the county superintendent of schools shall arbitrate the question and his vote shall be final. The township trustee as a member of the board of trustees of such consolidated school shall be the secretary and the treasurer of the board and shall keep the records of the office, and disburse the funds upon order of such board.

270. Cost Apportioned—Transportation of Pupils—New Building. 4. The cost of maintaining the consolidated school shall be apportioned between the town or towns and the township in proportion to the number of pupils of school age enumerated in each corporation. Taxes to meet such

cost shall be levied and collected in the town or towns and the township in the same manner as other taxes are levied and collected. The township trustee may arrange for the transportation of pupils living more than one (1) mile from the school. Whenever any new building or buildings shall be necessary for such consolidated school, the board shall build such building or buildings or make such repairs on old ones as they may deem necessary, and purchase the necessary site, and the cost thereof shall be apportioned between the town or towns and the township on an equal basis, each corporation paying one-half (1–2) the cost thereof.

271. Payment of Previous Indebtedness. 5. Whenever any school town in any township is indebted in any amount when such consolidation is proposed, it shall be lawful for the township to purchase the school building, buildings or equipment or such part thereof as shall upon approval by the county superintendent, auditor and assessor, be equivalent to a value not exceeding the indebtedness thereof and the school town shall pay off such indebtedness from the amount paid by the township and transfer such building, buildings, equipment or part thereof to the township.

CHAPTER XII.

Abandonment of School Property.

Sec.
271a. Abandonment of school district or corporation.
271b. Consent of voters to abandonment.
271c. Schools—Discontinuance — Township trustees.
271d. Schools—Cities fifth class—Abandoned school property—Parks.
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Sec.
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271k. Civil town may assume debt of school town.
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[Acts 1901, p. 437. Approved and in force March 11, 1901.]

271a. Abandonment of School District or Corporation. 1. Whenever a majority of the legal voters of any school district or corporation shall petition the trustee or trustees of such school district or corporation for the abandonment of their schools *and the consolidation of their schools* with the schools of some other school district or corporation in *the same township*, it shall be the duty of the trustee or trustees of such school district or corporation to comply with such petition, and to provide for the education of the children of such abandoned district or corporation in other schools as asked for in such petition. (§6421.)

[Acts 1901, p. 159. Approved and in force March 7, 1901.]

271b. Consent of Voters to Abandonment. 1. No township trustee shall abandon any district school in his township until he shall have first procured the written consent therefor signed by a majority of those legal voters who are entitled to vote for township trustee in such district: *Provided*, This act shall not apply to schools which have an average daily attendance of twelve (12) pupils or fewer. It shall be the duty of every township trustee to re-establish any district school so abandoned upon the written petition of two-thirds of the legal voters who are entitled to vote for township trustee in such district. (§6420.)

1. Petition. A petition to re-establish a school must be addressed to the township trustee.

2. Average Daily Attendance. The attendance for an entire school year must be taken into account before a school can be abandoned. There must be an attendance of twelve or fewer for a term to abandon a school without a petition.

3. Re-Established. A trustee who has abandoned a school because the attendance was twelve or fewer can not be compelled to re-establish it, even if petitioned to do so.

The clause of the statute making it the duty of the trustee "to re-establish any district school so abandoned," applies only to those schools which have been abandoned upon petition.

4. Transferred Pupils not to be Counted. In determining the daily average attending who have been transferred to the school are not to be counted.

5. Patron Whose Children Have Been Transferred. A patron whose children have been transferred can not sign a petition for the abandonment of a school.

6. Voters of District. The voters of the school district are those who are attached to the district for school purposes, having children entitled to attend the public schools.

[Acts 1907, p. 444. Approved March 11, 1907.]

271c. Schools—Discontinuance—Township Trustees. 1. The township trustees shall discontinue and temporarily abandon all schools under their charge at which the average daily attendance during the last preceding school year has been twelve (12) pupils or fewer; and said trustees may discontinue and temporarily abandon all schools at which the average daily attendance during the last preceding school year has been fifteen (15) pupils or fewer: *Provided*, The conditions as to roads, streams and bridges permit of such discontinuance: *Provided, further*, That any school so discontinued and temporarily abandoned may be re-established by the township trustee in his discretion whenever he shall feel assured of an average daily attendance of more than twelve (12) pupils during the school year: *Provided, further* That nothing in this act, or in the act to which it is amendatory, shall authorize the discontinuance of any school exclusively for colored pupils where such school is the only school for colored pupils in such school corporation, and any such school heretofore discontinued by the operation of said act shall be re-established: *And provided*, That in case a majority of the patrons of any school district petition that any school heretofore abandoned be reopened, then the township trustee shall open such abandoned school and re-establish the same. (§6422, as amended 1909, p. 73.)

1. Abandonment of High Schools. The patrons of a township high school have no power either to require the establishment of high schools or to prevent their abandonment; the school trustee may establish and abandon such high schools under his general powers given by §6410 Burns' Rev. Stat. 1908 without procuring the assent of the patrons of such schools. However, he must abandon any such school having a daily general average attendance of twelve pupils or fewer during any school year. If there is being taught in a district school high school branches, the trustee may abandon the high school branches without abandoning the district school, and this he may do without the assent of patrons. He may not, however, abandon the teaching of German in a district school when at least twenty-five patrons have petitioned for such teaching. —Bingham, Atty.-Gen.

[S. 263. Approved March 10, 1915.]

271d. Schools—Cities Fifth Class—Abandoned School Property—Parks. 1. That in any city of the fifth class within the state in which the school corporations of such cities have heretofore purchased in the name of said school corporations real estate to be used for school purposes, and the use of which real estate shall have since been abandoned for school purposes, it shall be lawful for the school trustees of said school corporations to authorize the use of such real estate for park purposes, in the manner as provided by this act.

271e. Permitting Use by City. 2. No money shall be expended out of the school corporation treasury for the maintenance of such abandoned school grounds for park purposes, but the board of school trustees of any

school corporation in cities of the fifth class owning such abandoned school grounds may by an order entered of record permit the use of such abandoned school grounds by any city of the fifth class for park purposes, fixing in such order the conditions, restrictions and limitations within which such city of the fifth class may take and use such abandoned school grounds for such park purposes.

271f. Acceptance by Council—Maintenance. 3. Any city of the fifth class within this state may by an ordinance of the common council, accept from the school corporation of any such city the use of any real estate being abandoned school grounds, as hereinbefore provided, or any such city may by ordinance of the common council accept from any person or persons for any definite time not less than five years the use of any real estate in such city formerly used for cemetery purposes, having been abandoned and the bodies having been removed therefrom, and any such city is hereby given the right, power and authority through their common councils, to use and maintain and keep in condition any such real estate for park purposes for the use of the general public, in the manner and under the same conditions and restrictions and limitations as are now fixed and provided by law for the use and control and maintenance of park properties by such cities, in every way and to the same extent as if the city owned said real estate in its own name and right; and such cities of the fifth class shall have the power and authority to accept by city ordinance such real estate for park purposes under the order of the school trustees of the school corporation, as herein provided, or from such person or persons.

4. The title to such real estate shall remain in the school corporation, and the use by cities of the fifth class shall continue so long as such cities continue to maintain such real estate as a public park.

271g. Abandonment for Park Purposes. 5. If at any time after such real estate has been accepted for park purposes, as aforesaid, such cities shall abandon the use of such real estate for park purposes, it shall be lawful for the school trustees of such school corporation so owning said real estate, to take possession of said real estate, and to sell and convey said real estate in the manner now or hereafter provided by law.

271h. Schools—Trustees Abolished—School Corporation Dissolved. 1. That any incorporated town in the state, that has no school indebtedness, the inhabitants of which do not exceed two thousand (2000) as shown by the last preceding general census, may, through its town board of trustees, abandon and discontinue its management and control of public schools within such incorporated town, and abolish the board of school trustees therein. Whenever a town so discontinuing its board of school trustees shall desire to again take control of its school affairs the town board may on petition signed by a majority of the resident freeholders, pass an ordinance to that effect and appoint a board of school trustees: *Provided*, That whenever a town passes such ordinance to again take control of its school affairs as herein above provided, it shall be the duty of the county assessor, county auditor and county superintendent of schools, to act as an appraising board to determine what if any equitable right the township has in the school

property thus taken over and to determine the extent to which such town is indebted to the township, and the board of town trustees shall pay over to the township such amount as has been so determined; before said town shall be permitted to take over the schools: *Provided, further*, That such school property shall not be appraised and taken over by the town as above provided unless a majority of the resident freeholders in the township residing outside of said town, consent to such transfer: *Provided, further*, That no town board shall dissolve the school corporation except by consent of a majority of the freeholders therein.

[Acts 1915, p. 199.]

271i. Conveyance of Property to Township. 2. The town board of trustees of any such incorporated town, upon deciding to abandon and discontinue the control of the public schools therein, shall make or cause to be made a good and sufficient deed, conveying all real estate belonging to such school town to the township trustee of the township in which such incorporated town is located; and shall transfer all the personal property and fixtures belonging to such school town to such township trustee, all of which shall be accepted and held by such township trustee for the use and purposes of the school township wherein such town is located: *Provided*, That when any such incorporated town shall be located in two or more contigious counties, the children of school age who are residents of such incorporated town shall be entitled to the same school privileges in such incorporated town as the children of school age who are residents, exclusively of the township which has assumed ownership and control of such school and school property. And all school revenue which is paid or which may hereafter be paid by that portion of such incorporated town lying outside of the township which has assumed control and ownership of such school and school property, shall be paid to the township trustee of the township wherein such school is located, in the same way and manner as such revenues were paid to the school trustees of such incorporated town before such town relinquished control and possession of such school and school property. (§6480a.)

271j. Township Control. 3. After the requirements set forth in the preceding section are complied with, the township trustee shall have full and complete control of all the schools within such town and shall conduct the same as provided for by law for the other schools of such township. And all children of school age residing outside of the township in which such school and school property is situated but within the limits of any such incorporated town, as herein provided, shall possess all the rights and privileges to attend the school or schools located within such incorporated town, the same as though they lived in the township wherein such school or school property is located. (§6480 b.)

NOTE. Towns coming within the provisions of this section can not abandon control of schools and abolish the board of school trustees if the town is liable for damages on account of contracts made by the school trustees.—Hornbeck v. State, 33 App. 609, 71 N. E. 916.

[Acts 1917, p. 50. Approved February 23, 1917.]

271k. Civil Town May Assume Debt of School Town. 1. That the trustees of any incorporated town, the inhabitants of which do not exceed two thousand (2,000), as shown by the last preceding United States census,

may assume on behalf of such town any indebtedness of its corresponding school town, not exceeding five thousand dollars ($5,000), for the purpose of placing the school property of such school town in a status to be transferred to the school township of the township in which such school town is located, as provided by law: *Provided*, such assumption will relieve the school town of all indebtedness, and *Provided, further*, That the school township trustee of the township in which such town is situated shall undertake and agree upon the transfer to the school township of such school property to erect a convenient township central school building of sufficient capacity to comfortably serve the school needs of such school town and school township.

271-1. Manner of Assuming Debt. 2. Such school indebtedness shall be assumed by such civil town by the passage of a resolution by the board of trustees of such town at any regular meeting thereof to the effect that such indebtedness is assumed by such town and stating therein the date of the resolution or order of the school board creating such indebtedness, the page of the record where recorded, the date of the bonds or other evidence of indebtedness assumed, the denomination thereof, the rate of interest they bear, when the same becomes due and where payable and when and where the interest thereon is payable. Upon the passage of such resolution the abolishment of the school trustees of such town and the compliance with section 1 of this act by the school township such indebtedness shall become the debt of such civil town, and the board of trustees of such town are authorized to levy a tax of not to exceed thirty cents on each one hundred dollars of the taxable property of such town to provide funds to pay such indebtedness as the same becomes due and to continue such levy from year to year until such indebtedness is paid. *Provided*, That any funds in the treasury of the school board raised for the payment of such indebtedness, and the funds to be raised from any levy made by the school town prior to such assumption and payable thereafter shall be paid to the treasurer of such town and be applied solely to the payment of such indebtedness so assumed.

CHAPTER XIII.

Transportation of School Children.

Sec.
271m. Schools—Transportation of pupils—Payment of expense.
271n. School children, transportation of.
271o. Transfer to nearest school.
271p. Duty of trustee.
271q. Expense of transfer.
271r. Conveyances, ventilation and heat.
Sec.
271s. Drivers, qualifications of.
271t. Drivers can not sublet contract.
271u. Railroad crossings—Caution prescribed.
271v. Expense, payment of.
271w. Penalty.
271x. Prosecutor to enforce provisions.

[Acts 1913, p. 655.]

271m. Schools—Transportation of Pupils—Payment of Expense. 2. It shall be the duty of the township trustee to provide for the education of such pupils as are affected by such or any former discontinuance in other schools, and they shall provide and maintain means of transportation for all such pupils that live at a greater distance than two (2) miles and for all pupils between the ages of six (6) and twelve (12) that live less than two (2) miles and more than one (1) mile from the schools to which they may be transferred, either within the township or in an adjoining township or school corporation, as a result of such discontinuance. In all townships where a school has been abandoned under the provisions of this act, the trustee shall provide for the transportation of all pupils of any other school of such township who live more than two (2) miles and all pupils between the ages of six (6) and twelve (12) that live more than one (1) mile from the school to which they are attached, whenever a majority of the patrons of such school petition the trustee to provide such transportation. Such transportation shall be in comfortable and safe conveyances. The drivers of such conveyances shall furnish the teams therefor, and shall use every care for the safety of the children under their charge, and shall maintain discipline in such conveyances. Restrictions as to the use of public highways shall not apply to such conveyances. The expenses necessitated by the carrying into effect of the provisions of this act shall be paid from the special school fund. (§6423.)

1. Prior to the adoption of this act, school officers were not required to furnish free transportation to pupils to and from public schools.—State v. Jackson, 168 Ind. 384, 81 N. E. 62; Nelson v. State, 168 Ind. 491, 81 N. E. 486.

2. In a proceeding to compel a township trustee to furnish free transportation to pupils to and from schools, it must be shown that he has funds that may be used for such purpose.—State v. Anderson, 170 Ind. 540, 85 N. E. 17; Dunten v. State, 172 Ind. 59, 87 N. E. 733; Waters v. State, 172 Ind. 251, 88 N. E. 67.

3. In proceedings to compel trustees to furnish transportation for pupils to and from schools, it must be shown that trustees have sufficient money in their hands to furnish such transportation to all pupils entitled to the same.—Waters v. State, 172 Ind. 251, 88 N. E. 67.

4. Vehicles need not go to the home of each pupil, but pupils may be required to travel a reasonable distance to meet a vehicle.—Lyle v. State, 172 Ind. 502, 88 N. E. 850.

5. Notice need not be given to the letting of contracts for the hauling of pupils to schools, nor is it necessary for the advisory board to act with the township trustee in the making of such contracts.—Patterson v. Middle Tp., 98 N. E. 440.

6. Trustees can not be Mandated to Furnish Transportation Unless Advisory Board has Made Appropriation. A township trustee can not be mandated to provide transportation for school children, unless it first be shown that his advisory board has appropriated the money therefor, or has authorized him to borrow the necessary money.—State ex rel., Fairchilds v. Anderson, 170 Ind. 540.

7. Change of Site Does not Entitle to Transportation. The township trustee is not required to furnish transportation to pupils living more than two miles or more than one mile and less than two miles from school, where children are between six and twelve years of age, in a case where, upon petition of the patrons, the site of such schoolhouse has been changed, and the distance thereby made greater, but said school not abandoned or discontinued.—Bingham, Att.-Gen.

[Acts 1917, p. 130.]

271n. School Children, Transportation of. 1. That township trustees shall provide and maintain means of transportation for all pupils of public schools that live at a greater distance than two (2) miles and for all pupils between the ages of six (6) and twelve (12) years that live at a greater distance than one (1) mile from the schools to which they are assigned.

Note. Township trustees can not be compelled to transport pupils beyond corporate limits.—Stansbury, Att.-Gen.

271o. Transfer to Nearest School. 2. When pupils live within a distance nearer to another school of the same or different township in the same or different county, than the school to which they are assigned, it shall be the duty of the township trustee, upon application from the parent, guardian or custodian of such pupils, to issue a transfer to the nearer school.

Note. Other grounds for transfers, see §272.

271p. Duty of Trustee. 3. In all cases where pupils are transferred to schools in adjoining townships in the same county or in adjoining townships in adjoining counties, it shall be the duty of the township trustee of the township in which is located the school to which the transfer is issued, to provide for the transportation of such pupils: *Provided*, That such transportation will not necessitate any additional wagons or require an additional distance to be traveled.

271q. Expense of Transfer. 4. The township trustee having charge of the school from which pupils are transferred shall pay to the township trustee of the township to which they are transferred, an amount equal to the per capita cost of transportation and education of such pupils of such township.

1. A school corporation to which pupils have been transferred, can not collect anything for transportation unless such corporation actually furnished transportation to the pupils transferred.—Stansbury, Att.-Gen., Official opinion dated June 19, 1917.

271r. Conveyances, Ventilation and Heat. 5. In order to insure the health and comfort of children who are transported as is herein provided, it shall be the duty of the township trustees to provide covered wagons or conveyances with windows in each side as well as in the front and rear. These wagons or conveyances shall be equipped with suitable arrangements for heating in the winter time.

271s. Drivers, Qualifications of. 6. It shall be the duty of township trustees to hire drivers for such wagons or conveyances who shall furnish

safe teams except when automobiles are used. In all cases these drivers must be twenty-one (21) years of age or older and of good moral character, and must be experienced in the handling of teams or the driving of automobiles, depending on which is used.

271t. Drivers Can Not Sublet Contract. 7. Such driver shall not sublet such contracts for driving school conveyances under penalty of forfeiture: *Provided*, That in the case of illness or unavoidable absence, substitutes be temporarily appointed: *Provided*, That such substitutes shall meet with the approval of the township trustee and shall possess the same qualifications as specified in section six (6) of this act.

271u. Railroad Crossings—Caution Prescribed. 8. In order to provide for the safety of school children, it shall be unlawful for any person or persons driving any township wagon or conveyance, as is herein provided for, and used for the purpose of carrying children to and from school, to permit such wagon or conveyance to cross or enter upon the tracks or track of any steam or electric railroad, upon approaching thereto, without having first brought such wagon or conveyance to a full stop, and having some responsible occupant of such wagon or conveyance get out, walk ahead to such track or tracks and declare the same to be clear after having looked in both directions for approaching trains or cars.

271v. Expense, Payment of. 9. The expenses necessitated by the carrying into effect of the provisions of this act shall be paid from the special school fund.

271w. Penalty. 10. Any person or persons violating any of the provisions of this act shall, on conviction, be fined in any sum not exceeding five hundred dollars ($500) to which may be added imprisonment in the county jail, not exceeding six (6) months.

271x. Prosecutor to Enforce Provisions. 11. Whenever any township trustee shall fail to issue a transfer to another school as is herein provided, or fails to provide suitable transportation as is herein specified and described, it shall be the duty of the county prosecuting attorney, upon relation of any parent, guardian or custodian of any child of school age in such county, to make an investigation and bring such action as shall be necessary to enforce the provisions of this act: *Provided*, That the expense of such investigation and of any legal action which the prosecuting attorney may deem necessary, shall be borne by the county in which such prosecuting attorney has jurisdiction.

CHAPTER XIV.

Transfer of Pupils.

Sec.
272. Reasons for transfer.
273. Schools—Transfer of pupils—Tuition.
274. Appeal.
275. Payment of tuition—Refusal to make.
276. Rights not abridged.
277. Settlements for transfers.
278. Transfer to school corporation of 100,000.
279. Payment of tuition.
280. Orphans' Homes—Transfer of children to.
281. Transfer tuition—Fund—Rate.
282. Transfer denied—Appeal—Penalty.
283. Adjustment of tuition indebtedness.
284. Special written agreements.
285. Transfer outside of state—Tuition.
286. Indiana Soldiers' and Sailors' Orphans' Home—Admission.

[Acts 1901, p. 448. Approved March 11, 1901.]

272. Reasons for Transfer. 1. Whenever any child, resident in one school corporation of the state, may be better accommodated in the school of another corporation, the school trustee, board of school trustees or commissioners of the school corporation in which such child resides shall, upon the application of the parent, guardian or custodian of such child, made at any time, grant an order of transfer which shall entitle such child to attend the schools of the corporation to which such transfer is made under the conditions hereinafter prescribed: *Provided*, That in determining whether a child can be better accommodated in the schools of another school corporation than that in which such child resides, such matters as the proximity of the schools of the township and city to the residence of such child desiring the transfer; the kind and character of the roads to each; the means of transportation, if any, to each; the crowded conditions of the schools in either of the two school corporations shall be pertinent: *And, Provided, further*, That the desire to attend a commissioned or accredited [certified] high school, when no such school is maintained in the resident school corporation, or when in attending such commissioned or accredited high school the living expenses can be more advantageously provided for in another school corporation, or when such commissioned or accredited high school in another school corporation is more accessible, shall be deemed reasons for such transfer: *And, Provided, further*, That the provisions of this act shall be construed as applying in the same manner to resident pupils who are graduates from the eighth grade in the common schools of this state, or its equivalent, who may desire to attend a private school of the secondary rank, which, having been duly approved by the state board of education, holds the same rank as a commissioned high school. (§6449 as amended 1909, p. 173.)

Note. Distance from school grounds for transfer, see §271o.

1. The state board of education fixes standards to be maintained by non-commissioned and non-certified high schools so as to make the work done by such schools count uponthe courses in commissioned and certified high schools.

2. Annual Transfer. Transfers have to be made every year; a transfer for one year is not valid for the next year.—Edwards v. Trustee, etc., 143 Ind. 84.

3. The Right of Transfer. Formerly persons could be transferred at no other time than at the time enumeration was taken, and then only when the trustee was satisfied that they could be better accommodated.—Edwards v. Trustee, etc., 143 Ind. 84; but now the transfer may be made at any time.

4. Appeal. The right to be transferred is not absolute, depending upon the choice of the citizen, like the right to be attached to any school in his township. It can only be claimed if he "can be better accommodated" by such transfer, and the power of the trustee to make the transfer depends upon the existence of that condition. Of necessity, then, he must determine whether or not the condition exists, and act upon such determination. But his decision is not final. Section 445 expressly provides for an appeal to the county superintendent from all decisions of the trustee relative to school matters; and for the purpose of preventing, as far as can be, vexatious litigation, provides that the decision of the county superintendent shall be final as to certain matters, among which is enumerated "transfers of persons for school purposes." —Fogle v. Gregg, 26 Ind. 345; Edwards v. Trustee, etc., 143 Ind. 84. See §181.

5. Better Accommodations. The right of transfer for educational purposes, provided by statute, is given only to persons who can be better accommodated thereby. It is a personal right, and each request for transfer is to be considered and determined upon its merits as a separate case by the school officers; that is, can the person requesting the transfer, taking all the surroundings and conditions that will exist during the coming school year into consideration, be better accommodated during such year with school privileges at the schools of the school corporations to which he seeks transfer than at the schools of the school corporation in which he resides.

In the determination of this question many things would be material and pertinent; the proximity of the schools in the township and city to the residence of relator; the kind and character of the roads to each; the means of transportation, if any, to each; the crowded condition of the schools in either of the two school corporations.—Edwards v. Trustee, etc., 143 Ind. 84.

6. Taxes of Transferred Persons. Persons now transferred are no longer taxed in the township to which they are transferred, unless they have property in that township. For a decision on the old law, see Johns v. State, 130 Ind. 522.

7. To What Taxes Liable. Formerly a transferred person was liable to all taxes levied for school purposes in the corporation to which he was transferred, and at the same rate as resident school patrons.—Johns v. State, 130 Ind. 522.

8. Constitutional. The provisions of the old section authorizing the taxation of the person transferred was constitutional.—Kent v. Town of Kentland, 62 Ind. 291; Robinson v. Schenck, 102 Ind. 307, 315.

9. Must Receive. The person transferred must be received by the school corporation to which the transfer is made.—Edwards v. Trustee, etc., 143 Ind. 84.

10. Request Necessary. Unless the person to be transferred requests it, a transfer can not be made.—Edwards v. Trustee, etc., 143 Ind. 84.

11. Appeal on Refusal to Make Transfer. The person desiring to be transferred has the right to appeal if his request be denied; and so has the corporation to which a transfer is made. The appeal must be taken within thirty days after the request is made and refusal given; or, in case of the school corporation, within thirty days after it is notified of the transfer. On appeal, the decision of the county superintendent is final.—Edwards v. Trustee, etc., 143 Ind. 84.

12. Length of Time of Transfer. It has been rigidly held by the supreme court that a transfer is for a full year regardless of the length of term of school in the corporation from which the transfer is made. Therefore, if a child is transferred from a corporation maintaining a six months' term to a corporation that maintains a nine months' term the said child is entitled to nine months of school as provided where transferred.

13. Transfer of High School Pupils. All pupils are entitled to a four years' high school course in a commissioned high school, and when the corporation in which the pupil lives does not maintain such a course the pupil is entitled to a transfer to a commissioned high school.

273. Schools—Transfer of Pupils—Tuition. 2. If such transfer is granted, the school trustee or board of school trustees, or commissioners of the school corporation in which such child resides, shall pay out of the special school fund, or out of the township fund or out of the tuition fund at his discretion, to the school trustee, board of school trustees or commissioners of the school corporation to which such child is transferred, *as tuition for such child, an amount equal to the annual per capita cost of education in the corporation to which said child is transferred;* or such a part of it as the term of enrollment of said child in the schools of the creditor corporation may require: *Provided*, That the per capita cost in high schools shall be calculated upon the basis of expenditures for high school purposes, and the per capita cost in grade schools shall be calculated upon the basis of expenditure for the schools below the high school: *Provided*, That in case the corporation transferring said child maintains a school, or schools, *of like grade* to which said child is transferred, the rate of tuition shall in no case exceed the per capita cost in said school, or schools, maintained by the corporation which transfers such child. In calculating the per capita cost, only expenditures for the current year, not including permanent improvements and additions, shall be counted and shall be based on the following items: Salaries of instructors, supervisors and superintendent, salary of janitor, fuel and light, printing and laboratory supplies.

[As amended Acts 1915, p. 35.]

NOTE. The above repeals §2 of the law of 1901, as amended Acts of 1909, page 322, same being section 6450 Burns' Rev. Stat. 1914.

1. In determining the per capita cost, the total cost should be divided by the average monthly enrollment.

2. In small high schools where the superintendent devotes a part of his time to teaching, the contract should show the proportionate amounts paid for teaching and supervision. The tuition fund should be used in paying for teaching. The total cost for instruction should include the teaching part of superintendent's salary.

274. Appeal. 3. If an order of transfer be denied to the school corporation in which the said custodial institution or orphans' home is located, said school corporation by its proper officer or officers may appeal the case to the county superintendent of schools of the county denying said transfer. Either school corporation by its proper officer or officers may appeal from the decision of the county superintendent of schools to the state superintendent of public instruction, within sixty days, by filing a written statement of the case and serving written notice upon the other contesting corporation. (§6460.)

1. FINAL DECISION. The county superintendent's decision is final.

2. TIME FOR APPEAL. The appeal must be taken within thirty days after refusal to make the transfer has been made by the trustee.

275. Payment of Tuition—Refusal to Make. 4. The indebtedness for tuition between school corporations arising from the provisions of this act shall be due and payable February 1st and July 30th of every year. If any school trustee or board of school trustees or commissioners refuse to pay any sums claimed by another corporation as due, the creditor cor-

poration shall make written statement of the case to the county auditor, who shall have power to hear and determine the matter. If he hold that a given sum is due the complaining corporation, he shall, in the next semi-annual distribution of school revenues, withold such sum from the amount otherwise due the debtor corporation: *Provided*, That unpaid tuition claims arising between corporations of different counties shall be adjusted by the state superintendent of public instruction, through the apportionment of school revenues. (§6452.)

276. Rights not Abridged. 5. Nothing in this act shall be construed to abridge the right of trustees, boards of trustees or commissioners of two or more corporations to enter into written agreements to educate the transferred children of their respective corporations for a charge less than that named in §2 of this act. (§6453.)

[Acts 1907, p. 221. Approved March 9, 1907.]

277. Settlements for Transfers. 1. Any school trustee, board of school trustees or commissioners of any school corporation which shall receive transfer of children from another school corporation, shall on or before the third Monday in June of each year, file with the school trustee, board of school trustees or commissioners of the school corporation in which such transferred child or children reside, a complete statement showing all of such transfers, giving the name of each child and the school corporation from which each child was received, together with a statement of the attendance of each child so transferred and the amounts due to the corporation to which such transfer has been made *because of the same*, and also a certified statement of the annual per capita cost of maintaining the school or schools which such transferred child or children attended during the year. The school trustee, board of school trustees or commissioners of the school corporation from which said child or children were transferred shall pay out of the special school fund or out of the township fund, or out of the tuition fund, of his corporation, at his discretion, to the school trustee, board of school trustees or commissioners of the school corporation to which such child or children were transferred, on or before the 1st day of August next following the receipt of the aforesaid statement of the amount of tuition thus due and in the event of failure to pay said tuition when due, a penalty of ten per cent shall attach from and after the 1st day of August of the year in which such tuition is due: *Provided*, That the school trustee, board of school trustees or commissioners of any school corporation now indebted to any other school corporation on account of the transfer of any child or children, are hereby authorized to, and they shall pay such indebtedness out of the special school fund now belonging to the corporation so indebted, and not otherwise appropriated. (§6454 as amended 1909, p. 331.)

1. NOTE. A transfer certificate is the legal evidence that a pupil has the right to enter the schools of a corporation other than his own. It is an evidence of a legal claim of a creditor corporation against a debtor corporation. It is the better practice for school authorities to insist that transfer certificates be filed before pupils from outside corporations are received into their schools.

[Acts 1901, p. 513. Approved March 11, 1901.]

278. **Transfer to School Corporation of 100,000.** 1. Whenever a child shall be transferred for school purposes from one school district or corporation to another, the latter having a population of more than 100,000, according to the last preceding United States census, in case the parent, guardian or custodian of such child is at the time, prior to August 1st, in any year, a taxpayer in the district to which the transfer is made, any tuition payable by law on account of such transfer by the corporation making it, shall be reduced or credited to the extent of all current school taxes levied by the corporation to which the transfer is made and payable by such parent, guardian or custodian. (§6455.)

279. **Payment of Tuition.** 2. If any parent, guardian or custodian of a child entitled by law to attend the common schools of one district school or school corporation of this state desires to have the child transferred for school purposes to another such school district or school corporation of this state, thelatter having a population of more than 100,000, according to the last United States census, and he fails, or is unable to procure such transfer to be made, as provided by law, in such case if the child shall nevertheless be accepted as a scholar in the common schools of such district or corporation to which the transfer was desired, any tuition for the child payable by the parent, guardian or custodian to the school corporation where the child shall be so accommodated shall be reduced or credited to the extent of all current school taxes levied by the school corporation so accommodating the child, and payable by such parent, guardian or custodian. (§6456.)

[Acts 1903, p. 15. Approved February 6, 1903.]

280. **Orphans' Homes—Transfer of Children to.** 1. Dependent children in orphans' homes or custodial institutions for dependent children in this state, shall be educated by the township trustee or school board of the corporation in which the custodial institution or orphans' home is located. That the board of commissioners of any county, the board of children's guardians, township trustees, truant officers, state agents, juvenile courts and other courts and persons authorized by law to place dependent children in custodial institutions of this state, shall immediately upon the placing of any child or children in any such custodial institution, give notice to the school corporation from which said child came that said child has been placed in such custodial institution. That a transfer certificate shall be issued by the trustee or school board where such child has a legal settlement, for each dependent child in such custodial institution or orphans' home, and sent to the proper school officer or officers of the school corporation where said custodial institution or orphans' home is located: *Provided,* That in the event of a transfer of a child from one custodial institution or orphans' home to another, a new transfer certificate shall be issued. That each school corporation thus transferring a child or children shall be credited at the end of the school year on its transfer account to the amount of the annual per capita distribution made by the state superintendent of public instruction when such child has been enumerated in the custodial institution or orphans' home. That account shall be kept by the custodial institution or orphans' home of the actual school days each child is an inmate of said custodial institution or orphans'

home, and the same reported to the proper school officer where said institution is located at the end of the school year: *Provided*, That the report from any such custodial institution to the township trustee or the school board of the corporation in which the same is located, shall also contain the name of the school corporation in which said child has a legal settlement, the date when entering said institution, when removed, and the age of said child. That each dependent child in custodial institutions or orphans' homes in this state shall be enumerated where it is at the time the enumeration is taken, whether it be in the child's own school corporation or the school corporation where the custodial institution is located, but said enumeration shall not change the legal settlement of any such child. (§6458 as amended 1907, p. 310.)

NOTE. Since the transfer certificate is essential to enable the creditor corporation to establish its claim, trustees of corporations in which orphans' homes are located should insist upon having transfers before receiving such pupils into their schools.

281. Transfer Tuition—Fund—Rate. 2. That the school corporation in which such child has settlement shall pay out of the special school fund or out of the township fund or out of the tuition fund at the discretion of the trustee of the township, board of school trustees or commissioners of the school corporation, to the school corporation in which said institution is located, as tuition for said child, an amount equal to the annual per capita cost of education, in the corporation to which said child is transferred, *Provided*, That if said child is a resident of said school corporation for less than one (1) year, said annual per capita cost shall be pro-rated. In calculating the per capita cost, only expenditures for current year, not including permanent improvements and additions, shall be counted.

[As amended, Acts 1917, p. 89.]

282. Transfer Denied—Appeal—Penalty. 3. If an order of transfer be denied to the school corporation in which the said custodial institution or orphans' home is located, said school corporation by its proper officer or officers may appeal the case to the county superintendent of schools of the county denying said transfer. Either school corporation by its proper officer or officers may appeal from the decision of the county superintendent of schools to the state superintendent of public instruction, within sixty (60) days, by filing a written statement of the case and serving written notice upon the other contesting corporation. Any township trustee or secretary of a school board who refuses to issue transfer to any pupil sent from his school corporation to an orphans' home for school purposes, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten dollars ($10) nor more than twenty-five ($25.)

[As amended Acts 1917, p. 89.]

283. Adjustment of Tuition Indebtedness. 4. The indebtedness for tuition between school corporations arising from the provisions of this act shall be due and payable February 1st and July 30th of every year. If any school trustees or board of school trustees or commissioners refuse to pay any sums claimed by another corporation as due, the creditor corporation shall make written statement of the case to the county auditor, who shall have

power to hear and determine the matter. If he hold that a given sum is due the complaining corporation, he shall, in the next semi-annual distribution of school revenues withhold such sum from the amount otherwise due the debtor corporation: *Provided*, That unpaid tuition claims arising between corporations of different counties shall be adjusted by the state superintendent of public instruction, through the apportionment of school revenues. (§6461.)

284. Special Written Agreements. 5. Nothing in this act shall be construed to abridge the right of trustees, boards of trustees or commissioners of two or more corporations to enter into written agreements to educate the transferred children of their respective corporations for a charge less than that named in §2 of this act, nor shall this act applyto children maintained in any institution supported out of the state treasury. (§6462.)

[Acts 1911, p. 487. Approved March 6, 1911.]

285. Transfer Outside of State—Tuition. 1. That whenever the children, resident in any school corporation of the State of Indiana may be better accommodated in the schools of another school corporation or district outside of the State of Indiana but adjoining such school corporation in Indiana, then the school trustee, board of school trustees or commissioners of such school corporation in which such children reside, shall, upon petition of a majority of school patrons of such school corporation, grant orders of transfer to all children in such school corporation, between the ages of six and twenty-one years who may desire to attend school, to such school corporation or district outside of the State of Indiana; and for each child so transferred, such school trustee of each township and the trustees of each school town and school city shall pay to such foreign school corporation as a tuition fee for each pupil, a sum not exceeding two dollars per month for common school education, and a sum not exceeding four dollars per month for graded high school education, payable from the special fund of such school corporation: *Provided*, That such transfer shall not be made if a graded high school be situated within a distance of two miles of such school corporation within the State of Indiana: *Provided, further*, That no transfers shall be made until a satisfactory written contract shall be executed by such school corporation and such foreign school corporation or proper school authority. (§6448a.)

286. Indiana Soldiers' and Sailors' Orphans' Home—Admission. 9. The trustees and (under regulations and a form of application which they shall prescribe) the superintendent are authorized and required to receive, as pupils into said home, orphans and children residing in this state, under the age of sixteen (16) years who may be destitute of the means of support and education in the following order:

First: Orphan children of deceased Union soldiers or sailors in the army or navy of the United States in the late civil war, or in the war with Spain, or in the war in the Philippine islands or in the regular service of the United States, said orphans not having mothers living. If there be not applications for the admission of persons of this class sufficient to fill said home, then there shall be in like manner admitted:

Second: Orphans, children of such deceased soldiers or sailors, said orphans having mothers living. If there be not applications for the admission of persons of said two classes sufficient to fill said home then, in like manner, there shall be admitted:

Third: Children of permanently disabled or indigent soldiers or sailors of said service residing in this state, or in national military homes, having been admitted thereto from this state. If there be not applications for the admission of persons of said three (3) classes sufficient to fill said home, then, in like manner, there shall be admitted:

Fourth: All grandchildren of soldiers and sailors whose father or mother have died or have been committed to an asylum for the insane. All children admitted to said home as pupils thereof shall be supported and educated therein until they shall be sixteen (16) years of age, unless for good cause sooner discharged. Any of said pupils, who, by reason of physical disability or other cause may be, in the judgment of said board, unable to earn a livelihood, shall be retained as pupils of said home until they shall be eighteen (18) years of age.

[As amended, Acts 1915, p. 137.]

CHAPTER XV.

Schools in Cities of the First Class.

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[Acts 1899, p. 434. Approved March 4, 1899.]

287. Board of School Commissioners—Cities of 100,000 Inhabitants. 1. The government of common schools in cities of one hundred thousand or more inhabitants, according to the last United States census, shall be vested in a board of school commissioners, which shall consist of five school commissioners. The said board of school commissioners shall have and exercise all the powers now conferred by an act of the general assembly of this state, approved March 3, 1871, entitled "an act providing for a general system of common schools in all cities of thirty thousand or more inhabitants, and for the election of a board of school commissioners for such cities, and defining their duties and prescribing their powers, and providing for common school libraries within such cities," and all acts amendatory thereof, and supplemental thereto; and also all powers now conferred by law on boards o

school commissioners in cities of thirty thousand or more inhabitants, according to the United States census of 1870, as well as the powers now conferred by law on boards of school commissioners in cities of one hundred thousand or more inhabitants, except as otherwise herein provided. And said board of school commissioners provided for by this act shall assume, pay and be liable for all the indebtedness and liabilities of boards of school commissioners heretofore elected under the above described acts. (§6515.)

1. STATUTE VALID. This statute is valid.—Campbell v. City of Indianapolis, 155 Ind. 186, 57 N. E. 920.

2. The act of 1871 referred to is repealed by this act. It was declared unconstitutional in Campbell v. City of Indianapolis, cited above.

288. Qualifications of Commissioners. 2. The members of such board of school commissioners shall be at least twenty-five years of age, residents of the city, and shall have been such residents for at least three years immediately preceding their election. They shall be ineligible to any elective or appointive office under such board of school commissioners and under the government of such city while holding membership in said board. They shall not be interested in any contract with or claim against the school city in which they are elected, either directly or indirectly. If at any time after the election of any member of said board he shall become interested in any such contract with or claim against said school city he shall thereupon be disqualified to continue as a member of said board, and a vacancy shall thereby be created. Every member of said board shall, before assuming the duties of his office, take an oath before some one qualified to administer oaths that he possesses all of the qualifications required by this act, that he will honestly and faithfully discharge the duties of his office, that he will not, while serving as a member of such board, become interested, directly or indirectly, in any contract with or claim against said school city, and that he will not be influenced during his term of office by any consideration of politics or religion or anything except that of merit and fitness in the appointment of officers and the engagement of employes. No compensation shall be received by members of the board, but they shall be exempt from jury duty during their term of office. (§6516.)

289. Nomination and Election. 3. The said board of school commissioners shall be elected, except as specified in section 4 of this act, on a general ticket for the term of four years, by the voters of said city qualified to vote at its city elections. The members of such board shall be elected at the regular city election of such civil city, and shall be taken from the city at large without reference to districts, and such election shall be held under the provisions of the general laws governing such city elections, so far as they are not inconsistent with the provisions of this act. The expense of such election, except that of printing the ballots, shall be borne by the civil city. Not later than forty days before any election for members of the board of school commissioners, provided for in this act, householders of said city may present names of candidates for election as members of said board of school commissioners by filing the nominations in the office of the comptroller of said city in the manner following: Each candidate shall be proposed in writing by not fewer than three hundred householders of said city. No more than

one candidate may be named in any one petition and no person may sign more than one petition for any one election. Upon the filing of such petitions in the office of the comptroller, as aforesaid, the comptroller shall place the same in the public files of his office and for five days, the last of which shall be not less than thirty days before the election, he shall publish the names proposed in two daily newspapers of the city, and at the time required by law shall certify such nominations to the regular board of election commissioners for said city election. Any one thus nominated may withdraw his nomination by a written declination filed with the comptroller before the certification of the same as aforesaid. The comptroller shall not certify or publish the name of any candidate who shall appear to be ineligible under the provisions of section 2 of this act. The election commissioners shall prepare ballots the color and quality of whose paper shall be the same as that of the regular city ballots. The ballots so prepared shall contain the names of all such candidates arranged in alphabetical order in columns according to the following method: The names of candidates for each term shall be printed in a separate column, those for the regular term in the first column and those to fill vacancies in the second column, and such names shall be printed upon the ballots in rotation in such manner, as nearly as possible, that the name of each candidate shall appear at the head of the column for his term, whether the regular, or the vacancy term, as often as that of any other such candidate shall so appear, and in the second place a like number of times, and so on. In printing the ballots, the positions of the several names shall be changed as many times as there are candidates to be voted for. In changing the positions, the printer shall take the name at the head of the column and put it at the foot, raising the remainder of the column so that the name that was second before the change shall be first after the change. After the ballots are printed they shall be kept in separate piles, one pile for each change of position, and then gathered by taking one from each pile and placing it upon the pile to be blocked in such a way that every block of one hundred ballots (and all ballots shall be sent out in blocks of one hundred each) shall have as nearly as possible an equal number of ballots of each kind, and the name of each candidate thereon shall appear severally in first, second, third and fourth place, and so on, upon the several ballots an equal number of times with each of the other candidates for the said term. There shall be nothing on the face of said ballots except as otherwise provided herein and except the names of the candidates and the respective terms for which they are candidates, together with a square in front of each name and a statement at the head of each column of the number of candidates for that term for whom the elector may vote, and that the elector shall indicate his choice by marking a cross in the square opposite the name of each candidate for whom he votes, and not elsewhere. Such ballots shall be voted at the regular city election and deposited in a separate ballot box to be provided for the purpose. Each elector may vote for as many candidates as there are members to be elected, by marking a cross in the square opposite the name of each candidate for whom he votes. No election officer, challenger, or poll book holder shall indicate to any elector offering himself to vote what he believes or understands to be the political affiliation of any candidate for school commissioner. The candidates, in number equal to the number of members to be chosen, for the respective terms for which they shall have been nominated, who have the highest

number of votes of those cast for such term, shall be declared elected. If at any election a member is to be chosen to fill a vacancy and to serve out an unexpired term, candidates may be chosen as above provided, but they shall in all cases be nominated or proposed for such vacancy and designated in the petition and on the ballot as candidates to fill such vacancy, and the date of the expiration of the unexpired term shall be stated. The vacancies in said board of school commissioners shall be filled temporarily by the board as soon as practicable after such vacancy occurs. Such member so chosen shall hold office until his successor be elected and qualified. His successor shall be elected at the next regular city election, when the vacancy shall be filled for the remainder of the term. Any person violating any of the provisions of this section shall be fined upon conviction in any sum not exceeding two hundred dollars. (§6517.)

[As amended by Acts of 1903, p. 5.]

1. School commissioners to be elected under this section can not be nominated by political parties but must be designated by petition as herein provided.—Remster v. Sullivan, 36 App. 385.

290. Terms. 4. At the city election occurring on the second Tuesday in October, 1899, five members of the board of school commissioners shall be elected to serve as herein provided. They shall assume office on the first day of January, 1900, and meet at the office of the present board of school commissioners of such city at twelve o'clock, noon, and proceed to organize. Within one week after the organization of the said elected board they shall meet to divide themselves by lot, in such manner as they shall determine, into two classes, as follows: The first class, consisting of three members, shall hold office through the 31st day of December, 1901. The second class, consisting of two members, shall hold office through the 31st day of December, 1903. Thereafter, regular elections of members of the board of school commissioners shall occur at the regular city elections, held on the second Tuesday of October of each alternate year. In the year 1901, and every fourth year thereafter, three members shall be elected. In the year 1903, and every fourth year thereafter, two members shall be elected. (§6518.)

291. Organization—Treasurer. 5. The board of school commissioners shall organize annually at their first meeting in January by choosing one of their number president and another vice-president. The treasurer of the city shall be the treasurer of the board of school commissioners and shall receive a salary not to exceed one thousand five hundred dollars to be determined by the board of school commissioners. The treasurer shall make a monthly report to the board of all amounts received and expended during the month and the amount on hand to the credit of the board. He shall give bond to the approval of the board in such sum as it may determine and with not less than two freehold sureties or a surety company. (§6519. As amended 1911, p. 528.)

292. Committees—Salaries—Rules. 6. All standing committees provided for by the rules of said board shall be appointed by the president within two weeks after his election. All vacancies in offices directly or indirectly under the control of the board of school commissioners shall on their occurrence be filled for the unexpired terms in the same manner as is prescribed for the regular appointment or election: *Provided*, That no such

election to be made by direct vote of the board of school commissioners shall take place before the regular meeting next subsequent to that at which such vacancy is reported to said board. Subject to the limitations herein stated said board shall have power to fix salaries of all officers, agents, teachers, or other employes, in the employ of the board. Such board shall adopt such schedule of salaries as it may deem proper; and, for this purpose, shall divide all teachers, principals and other employes, into classes based upon experience or responsibility or both and each principal, teacher, or employe in any one of such classes shall receive the same compensation given to each of the other members of the same class. It shall have power to fix the time of meetings, except that one regular meeting shall be held each month; and to make, amend and repeal by-laws and rules for its procedure and for the government and management of the schools and school property under its control. But the rules and by-laws of the board of school commissioners superseded by this act so far as they are not inconsistent with the provisions hereof shall remain in force and be binding upon the board of school commissioners until such time as it shall adopt new rules and by-laws to supersede them. (§6523. As amended 1911, p. 528.)

293. Legislative Act—Director's Approval. 7. Every legislative act of the said board shall be by written resolution. Every resolution involving an expenditure of money or the approval of a contract for the payment of money, or for the purchase, sale, lease or transfer of property, or levying any tax, shall, before it takes effect, and at least five days before the next regular meeting, be presented, duly certified by the secretary, to the business director for approval. The director, if he approves such resolution, shall sign it; but if he does not approve it he shall return the same to the board at its next regular meeting, with his objections, which the board shall enter in full upon its journal, and if he does not return the same within the time above limited, it shall take effect in the same manner as if he had signed it: *Provided*, That the director may approve or disapprove the whole, or any item or part of any such resolution. When the director refuses to sign any resolution or part thereof, and returns it to the commissioners with his objections, the board shall forthwith proceed to reconsider it; and if the same is approved by the votes of at least three commissioners, it shall then take effect as if it had received the signature of the director, and in all usch cases the votes shall be taken by yeas and nays, and entered on the records of the board. (§6520, as amended 1911, p. 528.)

294. Officers and Teachers—Examination. 8. The board shal have power to determine the number of assistant superintendents, supervisors, teachers and employes, and prescribe their duties and fix their compensation. The said board shall provide rules for the management and maintenance of the public library, and appoint an advisory committee to aid in the selection of books for the same, and to advise in all other matters pertaining to the library. The board shall adopt rules for obtaining, by open competition and without regard to religious or political beliefs, eligible lists from which all teachers and all other employes, except the superintendent, the assistant superintendent, the principal of the normal school, the supervisors, and the principals of the high schools, shall be elected with regard, exclusively, to fitness. (§6522.)

295. Business Director—Duties. 9. At their first regular meeting in April, 1913, and each four years thereafter the commissioners shall elect a superintendent of schools, a business director, a secretary, a librarian and a superintendent of buildings and grounds who shall serve for four years from the date of their election and shall be removable at any time by a vote of three members of said board of school commissioners. The business director shall be the executive officer of the board. He shall execute for the board of school commissioners in the name of the school city its contracts and obligations, except that bonds issued shall be signed by the president and attested by the secretary; he shall see that all contracts made by or with the board shall be fully and faithfully performed; he shall have the care and custody of all property of the school board not otherwise specified and provided for; he shall purchase all supplies subject to the rules of the board or the provisions of this act; and generally shall execute and carry into effect all matters and things authority for which shall have previously been granted by the board as herein provided. (§6521.)

296. Superintendent, Librarian, et al.—Duties. 10. The superintendent of schools shall have the power to appoint and discharge all principals, supervisors, assistants and teachers authorized by the board subject to the limitations of this act stated and shall report to the board annually and oftener if required as to all matters under his supervision: *Provided*, That the board of school commissioners shall approve of the appointment of assistants, principals, supervisors and teachers unless four of such members disapprove of the same. He may be required by the board to attend any or all of its meetings and may take part in the deliberations but shall not vote. He shall select and report to the board all charts, maps, text-books and apparatus to be used in the schools of the said city except the high schools, normal and manual training schools, conforming however so far as may be to the provisions of the general law of the State of Indiana, governing school books. In like manner he shall report to the board all text-books, maps, charts and apparatus to be used in the high schools, normal and manual training schools, which charts, maps, text-books and apparatus shall have first been selected by a committee consisting of said superintendent of the schools, the principal of the high schools, the principal of the normal school, the principal of the manual training school and the head of each department in which such maps, charts, text-books or apparatus is to be used. The librarian shall have charge of all libraries under control of the school board and shall recommend to the board for purchase, after the approval of the library advisory committee, all books, maps and charts, and such other things as are necessary for the equipment and maintenance of the libraries. The librarian shall employ and discharge all assistant librarians and other employes employed in and around such library buildings subject to the limitations of this act stated and not otherwise provided for, and shall report monthly and annually and oftener if required as to all matters under the supervision of such office. The secretary of the board shall keep all records and documents belonging to the school board and shall attend each meeting of the board and transcribe a true record of all its proceedings and report upon all things coming under the supervision of his office. He shall receive a salary not to exceed two thousand five hundred dollars per year to be fixed by the board of school commissioners. The super-

intendent of buildings and grounds shall be either a sanitary engineer or shall be skilled in and previously engaged in the business of heating, drainage and ventilation. He shall take personal supervision of all heating, ventilation, plumbing and drainage of all school, library and other buildings owned or used by the board of school commissioners either in use, or in the course of erection or to be hereafter erected by the board. He shall see that each janitor, custodian or engineer or other person employed in like capacity in or about such buildings shall be properly instructed in the care of such boilers, furnaces, pipes, electric wires, ventilators and other similar things as may fall under their charge. He shall appoint and discharge all engineers, janitors or other persons employed in or about such buildings subject to the limitations of this act stated and not otherwise provided for. He shall report monthly, annually and oftener if required by the board concerning the things under supervision of his office. He shall receive a salary not to exceed $2,000 per annum to be fixed by the board of school commissioners. All other employes of the school board shall be appointed by the business director subject to the limitations of this act stated. He shall report to the board monthly, annually, or oftener as required by the board concerning the things under the supervision of his office. He shall attend all meetings of the board and may take part in the deliberations subject to the rules but shall not vote. A majority of the entire board shall be necessary to elect or remove any officer elected by the board of school commissioners as herein provided, and the officer so removed shall not be eligible for re-election in any capacity for two years. The superintendent of schools, the business director, the secretary, the librarian and the superintendent of buildings and grounds shall take oaths similar to the oath herein prescribed for school commissioners in so far as is applicable, before taking office. (§6524. As amended 1911, p. 528.)

297. Appointment or Discharge—Reports. 11. All appointments or discharges of assistant superintendents, principals, supervisors, teachers, librarians, janitors, or any other employe of the school board shall be reported at the meeting of the board next succeeding the date of such discharge by the officer making such discharge and shall be subject to the approval of a majority of the board. In case any employe of the board shall file in writing a request with the secretary for a hearing by the board of charges brought against him by any officer or employe or other person, opportunity shall be given for appeal to the board before final action is taken, provided such application for appeal is presented at the same meeting that notice of charges or dismissal has been made. In such case the board shall consider the appeal not later than the next regular meeting at which notice of appeal was filed. Any such discharge shall operate as a suspension only, until approved by the board. (§6525. As amended 1911, p. 528.)

298. Schools—Business Director—Bond. 12. The business director shall devote his entire time to the duties of his office, and shall receive an annual salary of not more than four thousand dollars, to be fixed by the board, which salary shall be paid monthly, in equal instalments, out of the special fund of the school city; all persons in the employ of the board, except as otherwise provided by law, shall perform their respective duties under the general supervision of the business director, but subject to the orders of the

board. Before assuming office, the business director shall give a bond in favor of the school city in a penalty of ten thousand dollars ($10,000) to the approval of the board conditioned for the faithful discharge of his official duties, with two or more sureties, or a surety company. Any premium payable to a surety company on the bond of the business director or of any other officer or employe of the board, shall be paid from the funds of the school city. (As amended Acts 1917, p. 331)

299. Auditor of School Board. 13. The city comptroller shall be the auditor of the board of school commissioners of such school city. He shall keep an accurate account of all taxes levied for school purposes, and of all moneys due to, received and distributed by the board; also of all assets and liabilities of, and all appropriations made by the school board, and shall receive and preserve all vouchers for payments and disbursements made by the board. (§6527.)

300. Warrants. 14. The auditor of the board shall issue all warrants for the payment of money from the school funds, but no warrant shall be issued for the payment of any claim until such claim has been allowed by the board and approved in writing by the business director; but when the board has authorized the payment of money, notwithstanding his veto, the business director shall approve the same. The pay-roll, however, for assistants, principals and supervisors in the school work and teachers, shall be allowed by the board and approved by the superintendent of schools instead of by the director. (§6528.)

301. Evidence of Indebtedness. 15. Whenever the auditor of said board shall be called upon to issue any warrant, he shall have power to require evidence that the amount claimed is justly due and is in conformity with the law, and for that purpose he may summon before him any officer, agent or employe of the board, or any other person, and examine him on oath or affirmation relative thereto, which oath or affirmation he may administer. (§6529.)

302. Illegal Warrant—Liability. 16. If the auditor of said board shall draw a warrant for any claim contrary to law, he and his sureties shall be individually liable for the amount of the same. (§6530.)

303. Appropriation Necessary. 17. No money shall be drawn from the treasury except in pursuance of appropriations made by the board upon an aye and nay vote duly recorded, and whenever an appropriation is made by the board the secretary shall forthwith give notice thereof to the auditor and treasurer. No appropriation shall be made for a longer period than to the end of the current year ending June 30, and at the end of such year all the unexpended balances of all appropriations, except from the tuition fund, shall be covered into the special school fund as an addition thereto. (§6531.)

304. Auditor's Report—Bond—Pay. 18. The auditor shall submit to the commissioners annually, and oftener if required by them, a report of the accounts of the board, verified by his oath, exhibiting the revenues, receipts, disbursements, assets and liabilities, the sources from which the revenues and funds are derived, and in what manner the same have been disbursed.

He shall give bond for the faithful discharge of his duties in the sum of five thousand dollars ($5,000), with not fewer than two sureties, or a surety company, to the approval of the commissioners, which bond shall be filed with the secretary. The auditor of the said board shall receive no compensation for his services as auditor, but the board shall provide for the appointment of such assistants for such auditor as it shall deem necessary and fix their compensation, which shall be paid monthly out of the school funds; but such assistants shall be appointed by the auditor. The time of such assistant or assistants shall be at the command of the board to render such services in addition to those already prescribed by law as the board shall require. (§6532. As amended 1905, p. 155.)

305. **Accountants.** 19. At the close of each year ending June 30, the mayor of such city shall appoint one or more expert accountants, who shall examine the books, accounts and vouchers of the director, the treasurer and of all other departments of expenditure of said board and of the librarian provided for herein, and shall make report thereof to the mayor and to the board of school commissioners of said city. All the officers and employes of said board shall produce and submit to such accountants for examination all books, papers, documents, vouchers and accounts in their offices belonging to the same or thereto pertaining, and shall in every way assist said accountants in their work. In the report to be made by said accountants, they may make any recommendations they deem proper as to the business methods of such officers and employes. A reasonable compensation for such services shall be paid by said board. (§6533.)

306. **Payments to Treasurer.** 20. All money payable to the board shall be paid to the treasurer and his receipt for the same shall be filed with the auditor of said board, who shall issue his quietus therefor, which alone shall be sufficient evidence of such payment. No person except the treasurer shall collect or receive any moneys payable to the board and any payments made, except to such treasurer, and any receipt given therefor by any other person shall be void as against the board. (§6534.)

307. **Contracts, Appropriation for Necessary.** 21. No contract, agreement or obligation shall be binding upon the board unless an appropriation therefor shall have been first made by it. It shall be unlawful for any commissioner or officer chosen by the board of school commissioners in any manner, directly or indirectly, to profit by or be interested in any contract of said board, and any person convicted of a violation of this section shall be fined in any sum not less than one hundred nor more than one thousand dollars and expelled from office. (§6535.)

308. **Contracts to be in Writing—Supplies.** 22. All contracts involving more than two hundred dollars ($200.00) in amount shall be in writing, executed in the name of the school city, by the business director and approved by the board. When money therefor has been appropriated by the commissioners, the business director may make contracts and purchases not exceeding two hundred dollars ($200.00) in amount at any one time, but all such contracts shall be reported at its next regular meeting to the board, and if disapproved by a four-fifths vote of said board at its succeeding regular

meeting, such director shall be responsible therefor upon his bond. No purchase of supplies or of materials of any kind shall be made from any one person, firm or corporation in any year to the amount in the aggregate of more than two hundred dollars ($200), except upon bids duly advertised for and accepted. The board shall determine the mode and manner of advertising for bids for supplies. (§6536.)

309. Bids for Schoolhouse. 23. When the board determines to build or enlarge a schoolhouse, or make any improvements or repairs thereon, the cost of which shall exceed five hundred dollars ($500), the business director, shall advertise weekly for bids for a period of three weeks, beginning at least twenty-one days before the opening of the bids. The advertisement shall be inserted in two newspapers of general circulation in the city, and shall be entered in full in the records of the board. The bids duly sealed shall be presented to the board at the time fixed in the advertisement for bids, at which time the board shall meet, and none shall be received after that hour, and they shall immediately be opened by the business director, be publicly read by the secretary and be immediately thereafter entered in full in the records of the board. The board shall provide by general rules the conditions of all bids, but none but the lowest responsible bids shall ever be accepted. The business director may, at his discretion, reject all bids, and whenever there is any reason to suspect collusion, the bids of all concerned therein shall be rejected. If the amount of the expenditure does not exceed two thousand five hundred dollars ($2,500) two weeks' notice shall be sufficient. (§6537. As amended 1905, p. 155.)

310. Funding Indebtedness. 24. The board of school commissioners of any such city in which an indebtedness exists at the time of the passage of this act of eight hundred thousand dollars ($800,000) or more, is hereby authorized and empowered to fund such indebtedness to the extent of eight hundred thousand dollars, and for that purpose said board of school commissioners is hereby authorized and empowered to issue and sell its bonds in such sums and denominations as such board may deem advisable, to realize moneys with which to pay such existing indebtedness; such bonds to bear interest at not exceeding the rate of four per cent per annum, payable semi-annually, to be sold for not less than their par value, and to run for a term of not exceeding thirty years from January 1, 1902. The maturing of such bonds shall be so arranged that there shall mature in each of the ten years, commencing with the year 1902, at least the sum of twenty-five thousand dollars, and in each of the next ten years the sum of thirty thousand dollars, and in each of the next ten years the sum of thirty-five thousand dollars of the principal of the debt of said school corporation, including in such debt not only such bonded indebtedness, but also any other indebtedness of such school corporation which may be in existence when this act is passed. Such bonds may be issued from time to time as the maturity of the present indebtedness may require: *Provided*, That not more than eight hundred thousand dollars of such bonds in the aggregate shall be issued, or, if the board of school commissioners shall so determine, such bonds may all be sold at one time with the contract upon the part of the purchasers to furnish at stated future times so much of the proceeds thereof as may be desired to take up obligations not then due. No bonds shall be delivered until the money therefor is paid to

the treasurer of said school corporation, and interest shall not begin to accrue until such delivery. The board of school commissioners, shall preparatory to offering such bonds for sale, give notice for not less than four weeks prior to the date fixed for such sale, together with a description of such bonds and such offer, and invite bids therefor; such notice to be given by advertisement twice each week in at least one daily newspaper published in the city of Indianapolis and in one newspaper published in the city of New York, and by such other advertisements as the board may determine upon. Such board shall sell such bonds to the highest and best bidder: *Provided*, Said board shall have the right to reject any and all bids. The proceeds arising from the sale of such bonds shall be used for no other purpose than the payment of such present indebtedness, and no more bonds shall be issued than is necessary for that purpose. (§6538.)

311. Tax Levy. 25. The board of school commissioners in any such city is hereby authorized and empowered to levy annually, in addition to other taxes authorized by law, a special tax of not exceeding five cents on each one hundred dollars of taxable property in the city for the purchase of real estate and the erection and improvement of school buildings. The proceeds of such tax shall be segregated from other funds of the board, and a separate account of the same shall be kept, and shall not be used for any other purpose than the purchase of real estate and the erection and improvement of buildings for school uses. The said board is hereby authorized to levy annually, in addition to all other taxes authorized by law, and as an addition to its special fund, twenty-seven cents on each one hundred dollars of taxable property in the city, which levy shall within such limit be large enough to insure the payment of all interest to accrue on the real estate and improvement bonds to be issued under the provisions of the said act, to which this is an amendment and to keep school property in repair. Out of the last above levy by this section authorized provision shall be made for the payment in cash from year to year and the final retirement of such maturing indebtedness and the payment of such interest charges as are not payable out of other funds of such board and are not properly chargeable to any such other fund: *Provided*, That the aggregate sum levied by such board for all purposes shall not exceed in any one year sixty-seven cents on each one hundred dollars of taxable property in said city, and said sum of sixty-seven cents shall include all sums to be levied by said board in pursuance of any other existing law on account of free kindergartens, compulsory education, or any other purpose. (§6539. As amended 1907, p. 257.)

312. School Law in Force. 26. The general school laws of this state and all laws and parts of laws applicable to the general system of common schools in such school city and not inconsistent herewith, shall be in full force and effect in such city. (§6540.)

313. Old School Board. 27. The existing board of school commissioners in any city coming within this act shall continue in office until January first, 1900, and any such existing board shall until then, exercise all the powers which it now possesses under the legal limitations now existing, and in addition thereto it shall have power to make the additional levies herein authorized and to issue bonds as herein provided. When the board herein

provided for shall have been elected and qualified, the possession, control and management of all property, real and personal, including all moneys, books, records, papers and documents, and all rights and claims of every kind and nature then held by the board of school commissioners of such city, or by other school authorities, shall vest in and be transferred to the board of school commissioners hereby created without other transfer, to the same extent and with as full interest as the same had been theretofore held by the existing board of school commissioners or other school authorities; and all valid indebtedness and obligations of the existing board of school commissioners, or of such school city, shall be paid by the respective boards of school commissioners hereby created, and said boards of school commissioners are hereby authorized to maintain and defend all suits in the name of the school city for which they may be elected. (§6541.)

314. Limit of Debt. 28. The said board of school commissioners shall not have the power to create any debt other than funding obligations, and the real estate and improvement bonds provided for by this act and by the other sections of the act which it amends, in excess of the sum of twenty-five thousand dollars in the aggregate, save as provided in section 29 of the act which this act amends and except that it shall be liable upon its lawful contracts for the ordinary current expenses of its schools and library to the persons rendering services and furnishing materials therefor, when contracts are entered into as herein provided in accordance with the law, but said board shall not have any power to borrow money to pay such obligations so as to create a debt in excess of said twenty-five thousand dollars to others than to such persons so rendering services or furnishing materials, and any contract or obligation that may be issued in contravention of the provisions of this section shall be void. Obligations to persons rendering services or furnishing materials to said board of school commissioners in the current conduct of such schools and library will not be considered as a part of the twenty-five thousand dollars of indebtedness above authorized. (§6542, as amended 1903, p. 45.)

[Acts 1913, p. 318.]

315. Schools—Cities First Class—Right to Issue Bonds. 1. That the common school corporation in each city of this state of one hundred thousand, or more, inhabitants, according to the last preceding United States census, shall in addition to all other powers granted it by law, have power to borrow money and issue its bonds therefor as he einafter provided, viz: Each such common school corporation is hereby authorized and empowered to issue and sell its bonds, in such amounts and denominations as the board of school commissioners thereof may deem advisable, but not a face amount in the aggregate in excess of five hundred thousand dollars ($500,000) principal, for the purpose of realizing money to be used in paying for the construction of a library building, or library buildings, for a main library or branch libraries, or both, and in paying for the equipping of such building or buildings and for the improvement of the grounds surrounding such buildings. Such bonds shall be known as "library building bonds," and they shall bear interest at a rate not exceeding four and one-half (4 1–2) per cent per annum, and the interest shall be paid semi-annually. Such bonds shall

be sold by the school city issuing them at not below par and shall mature not more than forty (40) years from their date. They may be issued all at one time or from time to time, but in no event in an aggregate principal sum of more than five hundred thousand dollars ($500,000). No bond issued under the authority of this act shall be delivered until the money therefor shall have been paid to the treasurer of the school city issuing it and interest thereon shall begin to accrue at the time of such delivery. Preparatory to offering any such bonds for sale by any such school city, its board of school commissioners shall give notice for not less than three weeks of the date fixed for the sale and in the notice give a brief description of the bonds and of the mode of bidding, and inviting bids. Such notice shall be by advertisement, one time each week for three successive weeks, in one newspaper published in the city wherein the school corporation is located and in one newspaper published in the city of New York, and by such other method of advertising, if any, as the board of school commissioners may prescribe. The said board shall sell the bonds to the highest and best bidder, reserving, however, in its advertisements and notices, the right to reject any and all bids. The proceeds arising from all sales of bonds, made in pursuance of this act, shall be kept in a separate fund and to be known as the "library building fund" and be used only for the purposes, or for some one or more of the purposes, hereinbefore referred to as objects for which such bonds are authorized to be issued. (§6548.)

316. Purchase of Grounds and Buildings. 29. Said board of school commissioners may, notwithstanding the provisions of the above section 28 in the manner authorized by law, make contracts for the purchase of ground for school buildings and for the erection of new school buildings, and give its obligations therefor or for the money to pay for the same: *Provided*, That the amount of such obligations outstanding at any time shall not exceed five cents on the one hundred dollars of all the taxable property of said city as ascertained by the last preceding assessment, and any such contract or obligation which would cause the aggregate of the outstanding obligations or contracts for such purpose to exceed the limits above specified, shall as to such excess be void. In estimating the amount of such obligations, those obligations which shall be in force at the time this law shall go into effect, or the funding renewals thereof, shall not be taken into consideration. (§6543.)

317. Eminent Domain, may Exercise. 30. In case the compensation to be paid for the purchase of any real estate required by said board for its said school city can not be agreed upon or determined between said board of school commissioners and the parties interested in the land desired for school sites, then the board of school commissioners shall have the power of eminent domain, and it shall be its duty to proceed to have such compensation determined, and acquire title thereto in the manner provided for by §§4517, 4518 and 4519 of Burns' Rev. Stat. of 1881. (§6544.)

318. Removal of Commissioner. 31. Any member of the board of school commissioners may be removed upon petition of ten residents of said city to the superior or circuit court of said county in which said city is located, upon proof of either official misconduct in office or negligence of official duties, or of conduct in any manner connected with his official duties or otherwise which attaches discredit to such office or the school system, or for mental

or physical inability to perform his duty as such member, but before such removal he shall receive five days' notice of the filing of such charges, together with a copy thereof. Such hearing shall be had promptly and without the formation of any issues thereon, but said charges shall be regarded as denied. (§6545.)

319. Levy to Pay Debts. 32. It shall be the duty of said board of school commissioners at the regular time for making the levy of taxes to make a special levy of an amount sufficient to realize the sum by this act required to be paid upon the principal of its indebtedness during the ensuing year, and the proceeds of such levy shall be applied to no other purpose than the payment of such indebtedness. This levy shall be made as a part of the levy now authorized by law, and this section shall not permit the levy of any additional tax over and above those which said board would otherwise be authorized to levy. (§6546.)

320. Subsequent Censuses. 33. Whenever any city which has not now sufficient population to bring it within the purview of this act shall, according to any United States census hereafter taken, have a population of more than one hundred thousand people, an election of the board of school commissioners shall be held at the next general city election following the year in which such census shall be taken. Such election to be held in accordance with the provisions of this act, and this act shall then in all respects apply to and govern such city from thenceforward. (§6547.)

[Acts 1891, p. 348. Approved March 7, 1891.]

321. Manual Training Schools. 1. In all cities of the State of Indiana having a population of one hundred thousand or over, as shown by any census taken, by lawful authority, it shall be lawful for the board of school commissioners, or other school authorities having charge and management of the common schools of said city, to establish in connection with and as part of the system of common schools therein, a system of industrial or manual training and education, wherein shall be taught the practical use of tools and mechanical implements, the elementary principles of mechanical construction and mechanical drawing. (§6550.)

322. Teachers and Instruction. 2. Such board of school commissioners, or other school authorities, upon establishing such system of manual or industrial training and education, shall employ competent instruction in the various subjects to be taught, and establish such general rules and regulations for the admission of pupils and the conduct of the schools wherein the same shall be taught as in their judgment will produce the best results, and give instruction to the largest number of pupils practicable. They may provide for such instruction in separate rooms, or separate buildings, as in their judgment may be most advantageous. (§6551.)

323. Tax to Support Schools. 3. Any such board of school commissioners or other school authorities, having decided to establish such system of industrial or manual training, shall have authority, in addition to all other taxes now authorized to be levied, to levy a tax of not exceeding five cents on each one hundred dollars of property liable for taxation for school purposes, to be levied and collected as other taxes for school purposes are levied and

collected, for the purpose of purchasing grounds and erecting buildings, or for renting buildings wherein such instruction shall be given, the purchase of all necessary tools, implements and apparatus, and for the payment of instructors and other expenses incident to the maintenance thereof: *Provided*, That no portion of the taxes so levied and collected shall be applied to any other purpose. (§6552.)

[Acts 1909, p. 91. Approved March 1, 1909.]

NOTE. Section 1 legalizes proceedings under acts prior to the Act of 1899.

324. Taxes—Powers as to Levy 2. Each board of school commissioners in each city of more than one hundred thousand inhabitants, as designated in section one of this act, shall have, as respects the levy of taxes by it, the following powers:

To levy annually the following amounts on each one hundred dollars of all taxable property within the civil city in which such school city is located, viz:

A sum not exceeding four (4) cents, the proceeds of which levy shall be known as the "Library Fund," which fund shall be used for establishing, maintaining and supporting free libraries in connection with the common schools of such school city, and in paying any valid liabilities of said school city, incurred for any or all of said library purposes, but no part of said fund shall be diverted from library uses; and unless said board of school commissioners shall have otherwise provided, in any year, funds to meet the principal and interest as they mature of any "library building bonds," issued in pursuance of said Act of February 26, 1891 (Session Laws of 1891, page 35), whose title is quoted in the preamble of the [this] act, or to the extent the said board shall have failed so otherwise to provide funds, the payment of said principal and interest shall be a first charge on the proceeds of such library tax, and the duty of the said board to annually levy so much of said four (4) cents as shall be so found necessary for that purpose is hereby made mandatory:

A sum not exceeding five (5) cents, the proceeds of which shall be known as the "manual training fund," which fund shall be used for establishing, maintaining and supporting manual training or vocational schools, or both, or manual training or vocational instruction, or both, in the schools or high schools of such school city to the extent, and in such of said schools as may be deemed wise, and shall be used in paying any valid lawful liabilities of said school city incurred for any or all of said purposes, but no part of said fund shall be diverted from such uses; and unless said board of school commissioners shall have otherwise, in any year, provided funds to meet the principal and interest, as they mature, of any bonds or obligations of said school city executed and issued under color of law, for the purchase of grounds or the erection of buildings in establishing or carrying on manual training, or to the extent said board shall have failed so otherwise to provide such funds, the payment of such principal and interest shall be a first charge on the proceeds of such manual training tax, and the duty of the board annually to levy so much of said five (5) cents as shall be so found necessary for that purpose is hereby made mandatory:

A sum not exceeding one (1) cent, the proceeds of which levy shall be known as the "kindergarten fund," which tax shall be levied and the proceeds thereof applied only as provided by the statute of the State of Indiana, approved March 6, 1901 (Session Laws of 1901, page 123), authorizing the levy of such tax and providing for the application of the proceeds thereof:

A sum not exceeding five (5) cents, the proceeds of which shall be known as the "building and grounds fund," which fund shall be used for the purchase of grounds and the erection, alteration and repair of buildings for the use of the school city in carrying on any part or parts of its lawful school and library work:

A sum not exceeding one (1) cent, the proceeds of which shall be known as the "teachers' pension fund," and which shall be credited by the treasurer of said school city to the trustees of the teachers' pension fund and shall be used only for the purposes expressed in the statute of this state, approved March 9, 1907 (Session Laws of 1907, page 268), concerning pensions for aged, infirm, disabled, diseased, or retired teachers, in such cities of one hundred thousand or more inhabitants. And the duty of said board of school commissioners to levy annually said tax in the sum of one (1) cent on each one hundred dollars of such taxables is hereby made mandatory:

A sum not exceeding fifty-one (51) cents, the proceeds of which shall be known as the "special fund," from which fund shall be appropriated by the said board annually or oftener if need be, a sum sufficient to meet all interest charges and instalments of principal, as they mature of all of the debts, liabilities and obligations of the said school city for whatsoever purpose contracted to the extent such interest and principal, so maturing, have not been provided for by said board by appropriations from the other funds under its control, as above mentioned, which principal and interest so maturing, so to be provided for out of said special fund, shall be a first charge upon said fund; and said board is hereby authorized to appropriate and use the remainder of said fund for any common school, library or other purpose or work, lawfully within the control or management of said board of school commissioners.

The aggregate sum levied by any such board of school commissioners in any one year shall not exceed sixty-seven (67) cents on each one hundred dollars of taxable property in said city; the taxes authorized by this section two to be levied by any board of [school] commissioners shall be the only taxes it may levy, and from the proceeds of said fifty-one (51) cent tax or from such part thereof as any said board may levy, said board shall provide for carrying out in said city the so-called "compulsory education" statutes without a separate levy for that purpose. (§6539a.)

325. Bonds—Building and Grounds Fund. 3. If any such schoo city, as is designated in section one of this act, shall find, and its board of school commissioners, by resolution duly adopted and spread upon its minutes, shall declare that said levy of five (5) cents to produce a "building and grounds fund," as mentioned in section two of this act, was duly made by it in the preceding year, but that the proceeds thereof, to become payable and to be collected for the use of said school city during the calendar year in which such resolution shall be adopted, will be insufficient to meet the necessary expenditures, during the said last named calendar year, of said school city

for the purchase of grounds, and the erection, alteration and repair of buildings as mentioned in section two of this act, where the power to levy said five (5) cents is given, and shall declare the estimated amount of the proceeds of said levy so to be received during that year and shall declare the amount of such deficit, then and in such event it shall be lawful for said school city to borrow money and issue the bonds of said school city to the amount of such deficit, but not in principal greater than the sum of seventy-five thousand dollars in any one year. Such bonds shall be known as "school real estate and improvement bonds." They shall bear interest at a rate not exceeding four (4) per cent per annum, interest payable semi-annually shall be sold at not less than par and shall mature, as nearly as may be, at the rate of fifty thousand ($50,000) dollars a year, commencing to mature on the first day of July, thirty years after [the] year in which they are issued. No bond so to be issued shall be delivered until the price therefor shall be paid to the treasurer of said school city, and no interest shall accrue thereon before such delivery. Such bonds shall be payable to bearer and shall be of the general form usual in municipal bonds. Preparatory to offering such bonds for sale the board of school commissioners shall give notice for not less than three (3) weeks of the date fixed for the sale of such bonds with a description thereof and of proposals therefor and inviting bids therefor; such notice shall be given by advertisement by one insertion in at least one newspaper published in the city of Indianapolis, and one insertion in at least one newspaper published in the city of New York, and such other advertisements as the board may make. The board shall sell the bonds to the highest and best bidder and shall reserve the right to reject any or all bids. The proceeds arising from such sale shall be used for no purpose other than the purchase of real estate and the erection of buildings and improvements and the alteration and repair of buildings and improvements upon real estate of such school city. If it should transpire that any part of such proceeds of sale has not been used during the calendar year in which such bonds were sold such unused part shall be held as a separate fund to be used in a subsequent year and to be used only for such purposes. To the extent such a surplus shall exist the power hereby given to issue bonds shall be diminished by the amount of such surplus, so long as it shall remain unused. Any such school board which shall exercise the power given by this section three by issuing bonds shall not issue any other bonds of any kind during any calendar year in which it shall so issue bonds under the power given by this act. (§6548a.)

[Acts 1911, p. 356.]

326. Art Association Contract—Cities of First Class. 2. Whenever any board of school commissioners in any city of the State of Indiana having a population of more than 100,000, according to the last preceding United States census, has heretofore, in good faith, paid into any art association of said city, any sum or sums of money, under the terms of any enactment of the general assembly then supposed to be valid, and which, after such payment, has been held invalid by the supreme court of Indiana, and such art association has rendered the services required by such enactment, all such payments are hereby validated. (§6549b.)

[Acts 1909, p. 91. Approved March 1, 1909.]

327. Powers of School Commissioners. 5. The board of school commissioners in each such city, as is designated in section one of this act, shall have all the powers and duties of such boards as are conferred by existing statutes which are consistent with the provisions of sections one to four, both inclusive, of this act and shall have power: To establish, own and conduct, in connection with the common school system of its school city, free public libraries and branches thereof and to own and acquire real estate for such libraries and branches in all of the ways provided by law for the acquisition by it and owning of real estate for school purposes: To examine, by its superintendent, or by a person selected by him, all persons applying for positions as teachers in its schools and to issue to such of them as may be found to be qualified a license to teach in the common schools of said city: To acquire by purchase, devise, gift or lease, or by condemnation, grounds; construct or lease buildings for school, library and school administration and office purposes; employ and pay superintendents, teachers, librarians and all other employes needed in any branch of the work committed to said board of school commissioners and to disburse, according to law, all moneys of said school city for all lawful school, library and other school city purposes: To have and exercise in such school city full and exclusive authority concerning the conduct and management of all common schools and public libraries, carried on in connection with such schools, including the establishing and enforcing of all regulations for the grading of, and of courses of instruction in, all of said schools and for the government and discipline of such schools:

To maintain night schools during regular school terms and it may admit thereto adults and children over fourteen years of age; and to maintain playgrounds and vacation schools. (§6547a.)

328. Repeal. 6. All provisions of the general school laws of the state which are inconsistent with the provisions of this statute or with the statute of this state of March 4, 1899 (Session Laws of 1899, page 434), concerning common schools in cities of more than one hundred thousand population, or with any statute amendatory of that act or supplemental thereto shall, upon the taking effect of this statute, to the extent they are so inconsistent, not be effective in respect of the common schools in cities such as are designated in section one of this act.

[Acts 1915, p. 41.]

329. Art Associations—School Board—Payments to Maintain. 1. That in any city having more than one hundred thousand inhabitants according to the last preceding United States census wherein there now is or hereafter shall be an art association which is incorporated under the laws of the State of Indiana without stock and without purpose of gain to its members, but organized for the purpose of maintaining a permanent art gallery in said city and encouraging and promoting education in the fine and industrial arts and which owns buildings, grounds, works of art and other proper equipment for the study of art in said city, it shall be the duty of the school city of such city and of the board of school commissioners of such city, if any, to pay such art association annually in quarterly installments a sum equal to one-quarter of one cent on each one hundred dollars of the taxables

of said city as valued on the tax duplicate for the year next before the date of each such payment: *Provided*, Such art association has, by proper resolution, adopted by its board of directors or other governing body, accepted all the provisions of this act and filed a certified copy of such resolution with said school city or board of school commissioners of said city prior to the date of any such payment.

330. School Officers—Board of Visitors. 2. No such art association shall be entitled to receive any of the payments so hereinabove provided for until it, by a proper resolution adopted by its board of directors or other governing body, shall have tendered to said school city, or board of school commissioners (1) the right to appoint the superintendent of the common schools of said school city and the director of art instruction of said school city, if any such there be, as visitors having the privilege of attending all meetings of the board of directors or other governing body of said art association to the end that they may be advised as to the work done and proposed to be done by said association; (2) the right to nominate for membership in such board of directors or other governing body persons of whom at least two shall be elected; (3) the right of free admission for all school children and teachers of said school city to its museum and galleries and to not fewer than fifty lectures annually on the fine and applied arts; (4) the right to use at all reasonable times and in all reasonable ways the association's plant, equipment and facilities for education in art, consistently with their use by such association and in connection therewith the right to use at all reasonable times and in all reasonable ways, under the association's direction, its executive and teaching staffs consistently with their established duties to the association; (5) normal instruction in the fine and applied arts which at half the regular rates charged by said association for like instruction may be availed of by all teachers under the jurisdiction and employment of said school city or board of school commissioners; (6) the loan to such school city or board of school commissioners from the association's collection and equipment of suitable and available works of art, reproductions and photographs for temporary exhibitions in the city's schools to aid and supplement the teaching in such schools; (7) and such exhibitions in its museum as will supplement and illustrate the work of the school children and teachers under the authority and jurisdiction of said school city or board of school commissioners. A copy of said resolution duly certified by the president and secretary of the said art association shall be filed in the office of the school city or of the board of school commissioners as a condition precedent to the receipt by the association of any such payments.

331. Acceptance of Provisions. 3. That in any city such as is designated in the first section of this act, wherein there now is or hereafter shall be an art association which is incorporated and organized in the manner and for the purpose stated in the first section of this act, and which owns buildings, grounds, works of art or other proper equipment for the study of art in said city, it shall be the duty of the said city to pay such art association annually in quarterly installments a sum equal to one quarter of one cent on each one hundred dollars of taxables of said city as valued on the tax duplicate of said city for the year next before the date of each such payment provided such art association has, by a proper resolution adopted

by its board of directors or other governing body, accepted all the provisions of this act and filed a certified copy of said resolution with the comptroller of said city prior to the date of any such payment.

332. Mayor and Comptroller—Attend Meetings. 4. No such art association shall be entitled to receive any of the payments provided for in section 3 until such art association by a proper resolution adopted by its board of directors or other governing body, shall have granted to the mayor and the comptroller of said city the right to attend all the meetings of the board of directors or other governing body of said art association to the end that the said city may at all times be advised as to the work done and proposed to be done by said art association and the right to nominate for membership in such board of directors or other managing body persons of whom at least two shall be elected; and, as further consideration for the benefits to be received from said city by reason of such payments, shall have granted to all the inhabitants of said city the right to be admitted free to its museum and art galleries each Saturday and Sunday during the usual hours. A copy of such resolution duly certified by the president and secretary of the art association shall be filed with the comptroller of said city as a condition precedent to the receipt by the association of any such payments.

333. Resolution in Force. 5. After any such art association shall have once filed respectively with the school city or the board of school commissioners and with the city comptroller the resolution hereinabove provided for, it shall not be required to renew the same from year to year but each such original resolution shall continue and remain in force for the purposes named until by like resolution likewise certified and filed any such original resolution shall be revoked or rescinded.

334. Agreement in Force. 6. So long as any such art association shall do and perform all and singular the things by it so agreed to be performed as considerations for the benefits to be received by it under this act, or shall continue to be able, willing and ready to perform the same, it shall be entitled to receive the said several payments herein provided for.

335. One Association to Participate—How Chosen. 7. If at any time it shall transpire that in any city such as is designated in the first section of this act more than one art association such as is designated in that section shall have qualified as hereinbefore required to perform the several public services in this act mentioned nevertheless the moneys in this act authorized and directed to be paid by said city and by said school city shall be paid to but one of such associations. In such event the particular association to which said moneys shall be paid shall be the one selected by both the mayor of said city and by the managing body of said school city by formal corporate action, as the association best qualified and equipped to perform and render said several public services. Nothing in this act shall be construed as limiting the power of the general assembly to repeal this act at any time.

[Acts 1909, p. 292. Approved March 6, 1909.]

336. Health Inspection. 1. In every city of this state having a population of more than one hundred thousand, according to the last United

State census, it shall be the duty of the board of public health and charities of such city, for the protection of public health, to make medical inspection, from time to time, of all persons attending, or employed in or about all public, private and parochial schools in such city. For this purpose such board of health shall appoint, from time to time, competent physicians to make the inspections, and shall prescribe rules and regulations concerning the number and character of inspections and for the doing of the work and for reports to the said board of health concerning the same. Said board of health shall have power to prohibit the presence in or about any such school of any pupil, teacher, other employe, or person whose health is such that his presence would be, in the board's opinion, injurious or dangerous either to the person himself or to others in attendance at such school, and such prohibition shall be effective until revoked by such board of health. Such board of health shall have power to appoint, from time to time, as its judgment may dictate district nurses with such visitorial powers as such board may prescribe, to the end that such board may be kept informed of the care and attention that is being received by persons which it shall have so excluded from the schools and may be kept informed of the progress of such persons toward recovery. (§9549g.)

337. **Tax Levy for Health Inspector.** 2. All expenses necessarily incurred in carrying out the provisions of this act shall be borne by such civil city. It is hereby made the duty of every such civil city annually, beginning in 1909, to levy the sum of one-half (1–2) cent on each one hundred dollars ($100.00) of taxables within such city to create a fund, to be known as the "school health fund," for carrying out the provisions of this act. Such fund shall under no circumstances be used for any other purpose, but for the purpose aforesaid shall be subject to the warrant of the proper city official without any further appropriation. The duty of making such levy shall be performed regardless of any limit now existing by law in the tax-levying power of any such city. (§9549h.)

[Acts 1911, p. 96. Approved March 1, 1911.]

338. **Trade and Industrial Schools.** 1. In all cities of the State of Indiana, having a population of 200,000 or over, as shown by the last preceding census of the United States, it shall be lawful whenever the school city in such city shall have acquired title to and possession by gift or donation, of any real estate, building, and personal property situated in such city, which real estate, buildings, and personal property have heretofore been used for an industrial or trade school, for the education of boys, in the trades of printing, lithography, machinists, moulding, typesetting, bricklaying, tile setting, pattern making, and pharmacy, for the board of school commissioners or other common school authorities of such school city, in addition to all other taxes now authorized to be levied, to levy annually a tax of three cents on each one hundred dollars of property liable for taxation for school purposes in such city, to be levied and collected as other taxes for school purposes are levied and collected, for the purpose of maintaining and operating such industrial or trade school, and departments thereof, for teaching sundry trades heretofore mentioned, and such other trades as may be decided upon by such school authorities, and of performing any conditions incident to

the school city's acquisition of the property: *Provided*, That no portion of the taxes so levied and collected shall be applied to or used for any other purpose. (§6549a.)

339. Maintenance and Operation. 2. Such board of school commissioners or other common school authorities of such city, upon acquiring, by gift or donation, title to and possession of real estate, buildings and personal property heretofore used as an industrial or trade school, as mentioned in section 1 hereof shall maintain and operate such school and shall employ competent instructors in the various subjects to be taught; purchase necessary tools, implements, supplies, and apparatus, and establish general rules and requirements for the admission of pupils, courses of instruction, and the conduct of such trade or industrial school as in their judgment will produce the best results and give instructions to the largest number of pupils practicable, and such school city may also use the property so acquired for other school and library purposes, but in no way that will materially interfere with the conduct of trade or industrial schools or schools thereon. (§6549b.)

340. Transfer—Tuition. 3. The transfer tuition charge for each child, transferred from another common school corporation of this state, who shall take any trade or industrial instruction in any school upon the real estate so acquired, shall be the actual per capita cost of operating the school he attends, nothing being included in such cost for permanent improvements or additions, salaries of superintendents or for cost of apparatus or for breakages thereof. If a child not entitled to school privileges in said school shall, by said school city be permitted to take any trade or industrial instruction in any school upon the real estate so acquired, the tuition charged such child shall not be greater than the per capita cost of operating the school he attends, nothing being included in such cost for permanent improvements and additions. (§6549c.)

[Acts 1913, p. 99.]

341. Public Playgrounds and Public Baths—How Established. 1. That the board of health and charities in cities of the first class, in this state, and the board of health and charities or the board of school commissioners, or board of school trustees, in cities of the second, third, fourth and fifth classes, in this state, be and the same are hereby authorized to establish, maintain and equip public playgrounds, public baths and public comfort stations in said cities. That the boards of school commissioners and boards of school trustees or boards of health and charities in such cities are hereby authorized to use, and to permit the use of, any public grounds or buildings under their control as in their judgment may be required, or adaptable, pursuant to the provisions and for the purpose designated in this act. And such boards are hereby authorized to lease or purchase grounds, additional to such public grounds, either adjacent thereto or elsewhere in such cities; and such boards are hereby empowered, pursuant to the laws of eminent domain now or hereafter in force within this state, to condemn real estate to be used for the purposes herein expressed and to pay for such real estate so condemned out of the revenue hereinafter provided for in this act. (§6555r1.)

342. **How Controlled.** 2. Such boards shall have full control and custody of all such playgrounds, baths and comfort stations, including the policing and preservations of order thereon, and may adopt suitable rules, regulations and by-laws for the control thereof, and the conduct of children and other persons while on and using the same, and may enforce the same by suitable penalties. Such boards shall appoint a commissioner of public playgrounds, public baths and public comfort stations, whose duty it shall be to superintend and manage the work, to select directors and assistants, who while on duty, and for the purpose of preserving order and the observance of the rules, regulations and by-laws of the said boards shall have the powers and authorities of police officers of the respective cities in and for which they were severally appointed. The compensation for such employes shall be fixed by such boards. (§6555s1.)

343. **Expenses—How Paid.** 3. All the expenses necessarily incurred in carrying out the provisions of this act shall be borne by such civil cities. The common councils of such cities of the first class shall and cities of the second, third, fourth and fifth classes may, annually, beginning in 1913, levy the sum of not less than one (1) cent nor more than two (2) cents on each hundred dollars ($100.00) of taxables within such cities to create the sum, to be known as the "recreation fund," to be expended by such boards in carrying out the provisions of this act. Such funds shall under no circumstances be used for any other purposes, but for the purposes aforesaid, shall be subject to the warrant of the proper city official without any further appropriation. (§6555t1.)

CHAPTER XVI.

Schools in Cities of 63,000 to 69,000.

Sec.		Sec.	
344.	Schools—Cities second class.	349.	General school laws applicable.
345.	Under control school boards.	350.	Qualifications of school board.
346.	Expenses—How paid.	351.	How elected.
347.	Cities—Second class—Government of schools.	351a.	Applies to Other Cities—When.
348.	School corporations—Separate from civil corporations.	352.	Pending litigation—Present members.

[Acts 1913, p. 281.]

344. Schools—Cities Second Class. 1. That the board of school trustees in cities having not less than sixty-three thousand (63,000) nor more than sixty-nine thousand (69,000) population according to the last preceding United States census be and the same are hereby authorized to establish, maintain, and equip public playgrounds in such cities. That the board of park commissioners in such cities, are hereby authorized to permit the use of any public grounds under their control for playground purposes, and if in their judgment deemed necessary, may acquire and maintain suitable grounds specially for such purposes. (§6555u1.)

345. Under Control School Boards. 2. Such school boards shall have full control and custody of all such playgrounds, including the policing and preservation of order thereof, and may adopt suitable rules, regulations and by-laws for the control thereof, and the conduct of the children and other persons while on or using the same, and may enforce the same by suitable penalties. Such school board shall appoint directors, teachers and assistants, whose duty it shall be to superintend and manage said playgrounds, and to preserve order and observance of rules, regulations and by-laws of said school board. The compensation for such employes herein shall be fixed by said school boards. (§6555v1.)

346. Expenses—How Paid. 3. All the expenses necessarily incurred in carrying out the provisions of this act shall be borne by the civil city. The common council of such city shall annually, beginning in 1913, levy the sum of not less than one cent nor more than two cents on each one hundred dollars ($100.00) of taxables within said city to create the sum to be known as the "Playground Fund," and to be expended by such school board in the carrying out of the provisions of this act. Such funds shall under no circumstances be used for any other purposes, but for the purpose aforesaid and shall be subject to the warrant of the school boards without any further appropriation. The duty of making such levy shall be performed, regardless of any limit now existing by law in the tax levying power of such city. (§6555w1.)

[Acts 1913, p. 24.]

347. **Cities—Second Class—Government of Schools.** 1. That the government of the common schools in cities having a population of more than sixty-three thousand inhabitants and less than sixty-nine thousand inhabitants, according to the last preceding United States census, shall be vested in a board of school trustees, which shall consist of three members, elected in the manner hereinafter provided. (§6504n.)

348. **School Corporations—Separate from Civil Corporations.** 2. Such cities are hereby declared to be and are made school corporations for school purposes, separate and distinct from the civil corporations of the same cities, and shall be known and designated as the school city of (naming the city); and the several boards of school trustees of such cities shall represent and be vested with all the authority and powers of school cities, and with the management and control of the common schools thereof. (§6504o.)

349. **General School Laws Applicable.** 3. The general school laws of this state and all laws and parts of laws, applicable to the general system of common schools in cities, and not inconsistent therewith, shall be in full force in such cities; and such boards of school trustees shall also have and exercise all the powers heretofore and hereafter conferred upon the school trustees of the same or other cities of the state. (§6504p.)

350. **Qualifications of School Board.** 4. The members of such board of school trustees shall be at least twenty-five years of age, residents of the city, and shall have been such residents of the city for at least three years immediately preceding their election. They shall be ineligible to any elective or appointive office under such board of school trustees and under the government of such city while holding membership on said board. They shall not be interested in any contract with, or claim against the school city in which they are elected, either directly or indirectly: *Provided*, That this act shall not be construed to prevent anyone, otherwise eligible, who is connected as officer or stockholder in financial institutions holding school fund deposits under the state depository law from holding such office as school trustee. If at any time after the election of any member of said board, he shall become interested in any such contract with, or claim against said school city, he shall thereupon be disqualified to continue as a member of said board, and a vacancy shall thereby be created. Every member of said board shall, before assuming the duties of his office, take an oath before some one qualified to administer oaths that he possesses all the qualifications required by this act, that he will honestly and faithfully discharge the duties of his office, that he will not while serving as a member of such board, become interested directly or indirectly, in any contract with, or claim against said school city, and that he will not be influenced during his term of office, by any consideration of politics or religion, or anything except that of merit and fitness in the appointment of officers and the engagement of employes. Each member of such board of school trustees shall receive for his services herein such compensation as the common council of the city shall fix, which compensation shall be paid out of the special school revenue of the city. (§6504q.)

351. How Elected. 5. The said board of school trustees shall be elected as follows: The common council of each city coming under the provisions of this act shall annually hereafter, at a regular meeting of such common council in the month of June, elect one school trustee, who shall hold office for a term of three years, from the first day of the next succeeding August. Such trustee together with those whose terms of office have not expired shall meet within five days after the first day of August, 1913, and annually thereafter, and organize by electing one of their number president, one secretary, and one treasurer. The treasurer, before entering upon the duties of his office, shall execute a bond to the acceptance of the county auditor, in the sum of fifty thousand dollars, conditioned as an ordinary official bond, with a reliable surety company or at least two sufficient freehold sureties, who shall not be members of such board, as surety or sureties on such bond. The president and secretary shall each give bond, with like surety or sureties, to be approved by the county auditor, in the sum of twenty-five thousand dollars: *Provided*, That such boards of school trustees may purchase said bonds from some reliable surety company, and pay for them out of the special school revenue of their respective cities. All vacancies that may occur in said board of school trustees shall be filled by the common council at any regular meeting, but such election to fill a vacancy shall only be for the unexpired term: *And, provided further*, That the present incumbents of the offices of school trustees in any cities coming under the provision of this act shall hold their offices until the expiration of the terms for which they have been elected or appointed. (§6504r.)

351a. Applies to Other Cities—When. 6. Whenever any city which has not the requisite population to bring it within the provision of this act shall, according to any United States census hereafter taken, have a population of more than sixty-three thousand inhabitants and less than sixty-nine thousand inhabitants, then this act shall in all respects apply to and govern such city from thenceforth. (§6504s.)

352. Pending Litigation—Present Members. 7. The intendment of this act is and shall be that it shall not affect any impending litigation but the same shall be concluded and judgment rendered and enforced as if this act had never been passed and that all school trustees, in cities coming under the provisions of this act, who are now serving unexpired terms in such office, shall fill out such unexpired terms under the provisions of this act the same as if they had been elected to such office under the provisions of this act. (§6504t.)

CHAPTER XVII.

SCHOOL CITIES OF 55,000 TO 63,000.

SEC.		SEC.	
353.	Cities 55,000 to 63,000—Board of school trustees.	356.	Next election—Five to be chosen.
354.	Qualifications—Interest in contracts—Salary.	357.	Present incumbents of electives.
355.	Election—Terms—Petition for candidates.	358.	Take office as vacancies occur.
		359.	Future census—Effect.
		360.	Pending litigation.

[Acts 1911, p. 358. Approved March 4, 1911.]

353. Cities 55,000 to 63,000—Board of School Trustees. 1. The government of the common schools in cities having a population of more than fifty-five thousand inhabitants and less than sixty-three thousand inhabitants according to the last preceding United States census, shall be vested in a board of school trustees, which shall consist of five members, elected in the manner hereinafter provided. (§6504f.)

This act applies only to Terre Haute, which has by the census of 1910 a population of 58,157.

354. Qualifications—Interest in Contracts—Salary. 2. The members of such board of school trustees shall be at least twenty-five years of age, residents of the city, and shall have been such residents of the city for at least three years immediately preceding their election. They shall be ineligible to any elective or appointive office under such board of school trustees and under the government of such city while holding membership on said board. They shall not be interested in any contract with, or claim against the school city in which they are elected, either directly or indirectly: *Provided*, That this act shall not be construed to prevent any one, otherwise eligible, who is connected as officer or stockholder in financial institutions holding school fund deposits under the state depository law from holding such office as school trustee. If at any time after the election of any member of said board, he shall become interested in any such contract with, or claim against said school city, he shall thereupon be disqualified to continue as a member of said board, and a vacancy shall thereby be created. Every member of said board shall, before assuming the duties of his office, take an oath before some one qualified to administer oaths that he possesses all the qualifications required by this act, that he will honestly and faithfully discharge the duties of his office, that he will not, while serving as a member of such board, become interested directly or indirectly, in any contract with, or claim against said school city, and that he will not be influenced during his term of office, by any consideration of politics or religion, or anything except that of merit and fitness in the appointment of officers and the engagement of employes. Each member of such board of school trustees shall receive as compensation for his services herein the sum of five hundred dollars ($500.00) per annum. (§6504g.)

355. Election—Terms—Petition for Candidates. 3. The said board of school trustees shall be elected on a general ticket for a term of four years by the voters of any such city qualified to vote at its city elections. The members of such board shall be elected at the regular city election of such civil city, and shall be taken from the city at large without reference to districts, and such election shall be held under the provisions of the general laws governing such city elections, so far as they are not inconsistent with the provisions of this act. Not later than thirty days before any election for members of the board of school trustees provided for in this act, legal voters of such city may present names of candidates for election as members of said board of school trustees to a board of canvassers, consisting of the mayor, the clerk and the comptroller of said city in the manner following: Each candidate shall be proposed in writing by not fewer than two hundred legal voters of such city. No more than five candidates may be named in any one petition and no legal voter may sign for more than five candidates on petition or petitions for any one election. Upon the presentation of such petition to said board of canvassers, the said board of canvassers shall publish for five days the names proposed, in at least two of the daily newspapers printed and published in said city, and shall certify at the time required by law such nominations to the regular board of election commissioners for said city election, who shall prepare ballots printed on plain paper which shall contain the names of all such candidates, arranged in order to be determined according to lot by said board of canvassers. There shall be nothing on said ballot, except as otherwise provided herein, and except the names of the candidates and the offices to be filled, together with the square in front of each name and a statement at the head of the ticket of the number of trustees for whom the elector may vote. Such ballot shall be voted at said regular city election and deposited in a separate ballot box provided for the purpose. The name of any candidate shall not be thus published and placed on the official ballot by the said board of canvassers if it shall appear that he is ineligible for membership on the said board of school trustees under the provisions of section two (2) of this act. Each elector may vote for five candidates by making a cross in the square opposite the name of each candidate for whom he votes. The five candidates who have the highest number of votes shall be declared elected. The vacancies in said board of school trustees shall be temporarily filled by the board as soon as practicable after such vacancy occurs, except as hereinafter provided. Any such member so chosen to fill such vacancy shall hold office until the first Monday in January following the next general city election, and until his successor is elected and qualified: *Provided, however*, That in case the term of any trustee-elect as provided in section 5 of this act, shall commence at the date of any vacancy occurring prior to the first Monday in January following the next general city election after the taking effect of this act, then in that event, the then board of school trustees shall not fill such vacancy but it shall be filled by such trustee-elect, who shall serve as provided in section 5 herein; and that in case the term of office of any such trustee-elect shall commence at a date subsequent to the date when such vacancy occurs, the term of office of the trustee chosen by the board to fill such vacancy shall extend only to the date of the commencement of the term of such trustee-elect and until such trustee-elect is qualified, and

such trustee-elect shall serve as provided in section five (5) of this act. (§6504h.)

356. Next Election—Five to be Chosen. 4. At the next general city election after the taking effect of this act, five members of the board of school trustees shall be elected to serve as herein provided, and each of said trustees shall hold office for a term of four years, and until his successor is elected and qualified. (§6504i.)

357. Present Incumbents or Electives. 5. School trustees holding office in such cities at the time of taking effect of this act who obtained such office by election by popular vote, or by appointment by the city common council, and school trustees-elect who obtained such election by popular vote, or by appointment by the city common council, whose terms of office have not commenced at the time of the taking effect of this act, shall continue to hold, and take and hold, office therein respectively as such school trustee in such cities during the terms of office for which they were so elected and so appointed. And if any such city shall have a less number of trustees than five at the time of the taking effect of this act, the full number of five shall immediately be made up by the then board of school trustees of such city selecting persons to fill the place or places on such board of school trustees, and the new member or members so selected shall serve until the first Monday in January after the next general city election and until his, or their successor or successors are elected and qualified. (§6504j.)

358. Take Office as Vacancies Occur. 6. The five trustees elected as provided by section four (4) of this act shall take office as vacancies may occur by reason of the expiration of the terms of office of the trustees as provided in section three (3) and five (5) herein, and said trustees shall take office in the order of the highest number of votes received at said election. If any number of said trustees shall receive the same number of votes, the order in which they shall respectively take their office shall be determined by lot. At each succeeding general city election, there shall be elected five school trustees who shall respectively succeed the members serving as school trustees of any such city, upon the expiration of their respective terms of office, in the same order as hereinbefore provided. And each of said trustees, shall hold office for a term of four years and until their successors respectively are elected and qualified. (§6504k.)

359. Future Census—Effect. 7. Whenever any city which has not the requisite population to bring it within the provisions of this act shall, according to any United States census hereafter taken, have a population of more than fifty-five thousand inhabitants, and less than sixty-three thousand inhabitants, then this act shall in all respects apply to and govern such city from thenceforth. (§6504l.)

360. Pending Litigation. 8. It is the meaning and intention of this act, that the same shall not affect any pending litigation but the same shall be concluded, and judgment rendered and enforced as if this act had never been passed; and that all school trustees in cities contemplated by this act now legally in office, or which are elected and are hereafter to take office, under a valid law of this state, shall do so, and all questions as to the legality or illegality of their election shall not be disturbed by the provisions of this act. (§6504m.)

CHAPTER XVIII.

TAXATION.

SEC.
361. State tax levy.
362. Uniform tax.
363. Special school revenue—Limit—Used to pay teachers.
364. Assessment and collection.
365. Supplementary tuition fund.
366. Local tax—How applied.
367. Tax for town school house and to support town schools.
368. Educational Institution Fund—Levy.
369. Unexpended balance.

[Acts 1907, p. 505. Approved March 11, 1907.]

361. State Tax Levy. 1. There shall be in the year 1907, and annually thereafter, assessed and collected as state and county revenues are collected, thirteen cents and six mills on each one hundred dollars worth of taxable property, real and personal in this state, and in addition thereto a poll tax of fifty (50c) cents upon each legal voter in the state, which money when collected shall be paid into the state treasury for a common school tuition fund, and shall be apportioned to the several counties in the manner provided in said act, section one of which is hereby amended. (§6432.)

1. An Act of 1873 (p. 216) legalized tax levies for tuition made by school trustees of cities prior to January 21, 1875.

[Acts 1869, p. 41. Approved and in force May 13, 1869.]

362. Uniform Tax. 1. In assessing and collecting taxes for school purposes under existing laws, all property, real and personal, subject to taxation for state and county purposes, shall be taxed for the support of common schools, without regard to the race or color of the owner of the property. (§6440.)

[Acts 1873, p. 68.]

363. Special School Revenue—Limit—Used to Pay Teachers. 12 The trustees of the several townships, towns and cities, shall have the power to levy a special tax, in their respective townships, towns or cities, for the construction, renting or repairing of school houses, providing furniture, school apparatus, and fuel therefor, and for the payment of other necessary expenses of the school, including tuition and teachers' salaries, whenever in any current year the tuition funds shall have been exhausted; but no tax shall exceed the sum of seventy-five (75) cents on each one hundred dollars ($100) worth of taxable property, and one dollar ($1) on each poll, in any one year, and the income from said tax shall be denominated the special school revenue.

[As amended 1917, p. 708.]

1. COMMISSIONERS HAVE NO CONTROL. By the above section the legislature amended the act of 1865, giving trustees the absolute right to levy a special tax by increasing the amount from twenty-five cents to fifty cents, and reaffirming the former law, otherwise in the very words of it. This clearly removes all authority of com-

missioners over the trustees in making their special school levies.—Cole v. State, 131 Ind. 591; Shepardson v. Gillette, 133 Ind. 125.

3. Bank Stock. Shares of bank stock in a national bank are liable to the special tax authorized by this section.—Daniels v. Strader, 39 Ind. 63; Root v. Erdelmeyer, 37 Ind. 225, affirming 1 Wilson 99.

4. Who Levies and Collects. The township trustee makes the recommendation of a certain rate of taxation, but the township advisory board makes the levy. Under the old law the township trustee might levy.—Heal v. Jefferson Tp., 15 Ind. 431; Cole v. State, 131 Ind. 591; Shepardson v. Gillette, 133 Ind. 125; Adamson v. Auditor, 9 Ind. 174.

[Acts 1865, p. 3. Approved March 6, 1865.]

364. Assessment and Collection. 13. The county auditor shall, upon the property and polls liable to taxation for state and county purposes, make the proper assessments of special school tax levied by the trustee, in the same manner as for state and county revenue, and shall set down the amount of said tax on his tax-list and duplicate thereof, as other taxes are set down, in appropriate columns; and he shall extend said assessment to the taxable property of the person transferred, which is situate in the township, town or city to which the transfer is made, and to the property and poll of the person transferred, situate in the township, town or city in which the person taxed resides, according to the rate and levy thereof in the township, town or city to which the transfer is made, and for its use; and said tax shall be collected by the county treasurer as other taxes are collected, and shall be paid, when collected, to the treasurer for school purposes of the proper township, town or city, upon the warrant of the county auditor. To enable county auditors correctly to assess said tax, the county superintendents of the several counties shall, at the time they make out and report to the auditor the basis of the apportionment of school revenue for tuition, as is required by section 4432 [§113], make out and report to said auditor a statement of transfers which have been made for school purposes according to section 4472. (§6442.)

[Acts 1903, p. 409. Approved March 9, 1903.]

365. Supplementary Tuition Fund. 1. The school trustees of the several townships, towns and cities shall have power to levy annually a tax not exceeding fifty cents on each one hundred dollars of taxable property and twenty-five cents on each taxable poll, which tax shall be assessed and collected as the taxes of the state and county revenues are assessed and collected, and the revenues arising from such tax levy shall constitute a supplementary tuition fund, to extend the terms of school in said townships, towns and cities after the tuition fund apportioned to such townships, towns and cities from the state tuition revenues shall be exhausted: *Provided, however*, That should there be remaining in the tuition fund of any township, town or city levying such tax at the close of any school year any unexpended balances of such supplementary tuition fund assessed and collected for use in such school year, or previous years, equal to or exceeding in amount one cent upon each one hundred dollars of taxable property in said township, town or city, then it shall be the duty of the county auditor to take notice of the same, and at the time when the trustee or trustees of such school corporation shall make the annual levy for such tax such trustee or trustees shall make, under oath, an estimate of the amount of supplementary tuition

fund that will be required to meet the actual expenses of the schools for the next school year, and from such estimate said auditor shall deduct the unexpended balance of such fund in such trustee or trustees' hands on the first Monday of July, and the said trustee or trustees shall make a levy not larger than shall be sufficient to produce a supplemental revenue equal to the corporation as well as upon money capital paid in: *Provided*, That this act shall not apply to waterworks companies. (§6443.)

[Acts 1895, p. 153. Approved March 7, 1895.]

366. Local Tax, How Applied. 2. The funds arising from such tax shall be under the charge and control of the same officers, secured by the same guarantees, subject to the same rules and regulations, and applied and expended in the same manner as funds arising from taxation for common school purposes by the laws of this state: *Provided*, That the funds assessed and collected in any school township, school town or school city shall be applied and expended in the same school township, town or city in which such funds shall have been assessed and collected. (§6444.)

1. ANTICIPATING. This revenue is not forbidden to be anticipated, as is the state's tuition revenue.—Harney v. Wooden, 30 Ind. 178.

[Acts 1905, p. 219. Approved March 6, 1905.]

367. Tax for Town Schoolhouse and to Support Town Schools. 31. The board of town trustees shall have the following powers: * * * Nineteenth. To erect or provide such school houses as may be necessary for the use of the schools of the town, to complete schoolhouses in process of erection and provide for the payment of the cost of the same, to keep all such school houses in repair and to provide fuel and other necessaries therefor. (§9005.)

[Acts 1913, p. 506.]

368. Educational Institution Fund—Levy. 4. There shall be levied and collected upon the taxable property of the State of Indiana in the year 1913, and in each year thereafter, for the use and benefit of the Indiana University (Indiana University School of Medicine, and Hospital), Purdue University and the Indiana State Normal School to be apportioned as hereinafter in this act provided, a tax of seven cents on each one hundred dollars of taxable property in Indiana, to be levied, collected and paid into the treasury of the State of Indiana, in like manner as other state taxes are levied and collected and paid, and the same shall be distributed and apportioned among them, severally upon the basis as follows, viz.: To the said trustees of Indiana University upon the basis of two-fifths (2-5) of the total proceeds of this tax; to the trustees of Purdue University upon the basis of two-fifths (2–5) of the total proceeds of this tax; and to the trustees of the Indiana State Normal School upon the basis of one-fifth (1–5) of the total proceeds of this tax. The money derived from the tax provided for in this act shall be paid to the trustees of said institution on warrants of the auditor of state, in the same manner as the benevolent institution fund is disbursed to boards of trustees of benevolent and reformatory institutions. When the funds provided for by this act for said educational institutions shall become available, said funds shall constitute the total amounts to be paid out of the

treasury of the state to said institutions for any purpose, thereafter, and all acts and parts of acts in conflict with this provision are hereby repealed: *Provided*, That nothing in this act shall effect in any way any endowment or permanent fund or funds that may belong to or may have been appropriated for either Indiana University or Purdue University or the right of any of said institutions mentioned in this act to any taxes heretofore levied for their benefit, but all such taxes heretofore levied are hereby saved to said institutions: *And, Provided, further*, That no part of the general school revenue of the state shall be deducted or set apart to the State Normal School.

[Acts 1913, p. 507.]

369. **Unexpended Balance.** 5. In case there shall be any unexpended balance at the end of any fiscal year, of the funds provided for by this act, apportioned to any one of said educational institutions, the same shall not revert to the general fund but shall remain and belong to said institution to which it was apportioned, to be expended in the future only for the physical improvement of such institution; and no educational institution herein named shall construct any new building or buildings from said fund without first receiving the approval of the state board of finance.

CHAPTER XIX.

Schools in Cities of 45,000 to 55,000.

Sec.		Sec.	
370.	Cities of 45,000 to 55,000.	373.	Special tax.
371.	Powers of school board.	374.	Proceeds of bonds.
372.	Building—Bonds.	375.	Population.

[Acts 1901, p. 21. Approved February 20, 1901. In force May, 1901.]

370. Cities of 45,000 to 55,000. 1. All cities of this state having a population exceeding forty-five thousand (45,000), and less than fifty-five thousand (55,000), according to the last preceding United States census, have been heretofore and are hereby declared to be and are made school corporations for school purposes, separate and distinct from the civil corporations of such cities, and shall be known and designated as the school city of ..... (naming the city); and the several boards of school trustees of such cities shall represent and be vested with all the authority and powers of such school cities, and with the management and control of the common schools thereof. (§6509.)

371. Powers of School Board. 2. The general school laws of this state, and all laws and parts of laws, applicable to the general system of common schools in cities, and not inconsistent therewith, shall be in full force in such cities. And such boards of school trustees shall also have and exercise all the powers heretofore or hereafter conferred upon the school trustees of the same or other cities of the state. (§6510.)

372. Building—Bonds. 3. Such board of school trustees in any such city may purchase land and erect thereon a building or buildings for the purposes of a high school and a manual training school. For the purpose of raising the necessary funds to purchase such grounds, and for the erection of such buildings, such board of trustees may borrow money, and from time to time issue and sell the negotiable bonds of such school city, in such sums and denominations as to said board may seem advisable, drawing not to exceed four per cent interest per annum, payable semi-annually and running such length of time, not to exceed twenty years, and payable at such place as to said board may seem best, and the said board shall have the power to refund said bonds, or any part thereof, and to issue and sell other bonds, in lieu of those taken up and paid, by issuing and selling similar bonds of such city: *Provided, however,* That the aggregate amount of such bonds outstanding at any time shall not exceed one hundred and twenty-five thousand dollars ($125,000). Such bonds shall be executed by and in the name of the board of school trustees of..... (naming the city) by the president of the board, which such board shall have power to adopt and use, and shall be attested by the treasurer or secretary of such board, and when so executed and issued they shall constitute an indebtedness of the school city

on account of and for the benefit of which they are issued, and such school city issuing the same shall be liable for and shall assume and pay such bonds. (§6511.)

373. Special Tax. 4. Said boards of school trustees shall have the power to, and shall levy a special tax sufficient to pay the interest on such bonds, and to create a sinking fund for the payment of the principal thereof, when due: *Provided, however*, That the total tax levied for the payment of such interest and sinking fund, and for the construction and repair of school buildings, to provide furniture, school apparatus and fuel, and for the payment of other necessary expenses of the schools of such city (except for tuition, library and compulsory educational purposes), shall not exceed the sum of fifty cents on each hundred dollars' worth of taxable property and one dollar on each poll in such cities in any one year. (§6512.)

374. Proceeds of Bonds. 5. The proceeds of the sale of such bonds shall be paid to the treasurer of said board of school trustees, to enable such board to pay for such grounds and erect such building or buildings; but before the issue or sale of such bonds such treasurer shall make and file with the county auditor a bond, payable to the State of Indiana, in a sum not less than the full amount of such bonds to be issued and sold, and with security, to be approved by said auditor conditioned for the faithful and honest application of such money to the purposes for which the same was provided; and such treasurer, and such surety and sureties on such bond, shall be liable on a suit on such bond for any waste, misapplication or loss of such money in the same manner and to the same extent as now provided for waste or loss of school revenue. (§6513.)

375. Population. 6. Whenever any city which has not the requisite population to bring it within the provisions of this act shall, according to any United States census hereafter taken, have a population of more than forty-five thousand (45,000), and less than fifty-five thousand (55,000), then this act shall in all respects apply to and govern such city from thence forward. (§6414.)

When this law was enacted in 1901, Fort Wayne had a population of 45,115 and was the only city to which it applied. By the census of 1910, Fort Wayne has a population of 63,933, and has therefore passed out of the class. South Bend comes into the class by the census of 1910, with a population of 53,684.

CHAPTER XX.

Vocational Education.

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[Acts 1913, p. 37.]

376. Vocational Education. 1. The following words and phrases as used in this act shall, unless a different meaning is plainly required by the context, have the following meanings:

1. "Vocational education" shall mean any education the controlling purpose of which is to fit for profitable employment.

2. "Industrial education" shall mean that form of vocational education which fits for the trades, crafts and wage-earning pursuits, including the occupation of girls and women carried on in stores, workshops, and other establishments.

3. "Agricultural education" shall mean that form of vocational education which fits for the occupations connected with the tillage of the soil, the care of domestic animals, forestry and other wage-earning or productive work on the farm.

4. "Domestic science" education shall mean that form of vocational education which fits for occupations connected with the household.

5. "Industrial agricultural or domestic science school or department" shall mean an organization of courses, pupils and teachers designed to give either industrial, agricultural or domestic science education as herein defined, under a separate director or head.

6. "Approved industrial, agricultural or domestic science school or department" shall mean an organization under a separate director or head, of courses, pupils and teachers approved by the state board of education designed to give either industrial, agricultural or domestic science education as herein defined.

7. "Evening class" in an industrial, agricultural or domestic science school or department shall mean a class giving such training as can be taken by persons already employed during the working day, and which in order to be called vocational must in its instruction deal with the subject-matter of the day employment, and be so carried on as to relate to the day employment; but evening classes in domestic science relating to the home shall be open to all women over seventeen who are employed in any capacity during the day.

8. "Part-time classes" in an industrial, agricultural or domestic science school or department, shall mean a vocational class for persons giving a part of their working time to profitable employment and receiving in the part-time school or department, instruction complementary to the practical work carried on in such employment. To give a part of their working time such persons give a part of each day, week or longer period to such part-time class during the period in which it is in session. (§6641a.)

"Shall"—Generally it is the presumption that the word "shall," as used in a given law, is to be construed in an imperative sense, unless a different legislative intent clearly appears from the context or manifest purpose of the act as a whole.—State of Indiana, ex rel. Simpson et al. v. Meeker et al., 182 Ind. 240.

377. **Establishment of Schools.** 2. Any school city, town or township may through its board of school trustees or school commissioners or township trustee, establish vocational schools or departments for industrial, agricultural and domestic science education in the same manner as other schools and departments are established and may maintain the same from the common school funds or from a special tax levy not to exceed 10 cents on each $100 of taxable property, or partly from the common school funds and partly from such tax. School cities, towns and townships are authorized to maintain and carry on instruction in elementary domestic science, industrial and agricultural subjects as a part of the regular course of instruction. (§6641b.)

378. **Classes—How Divided.** 3. In order that instruction in the principles and practice of the arts may go on together, vocational schools and departments for industrial, agricultural and domestic science education may offer instruction in day, part-time and evening classes. Such instruction shall be of less than college grade and be designed to meet the vocational needs of persons over 14 years of age who are able to profit by the instruction offered. Attendance upon such day or part-time classes shall be restricted to persons over 14 and under 25 years of age; and upon such evening classes to persons over 17 years of age. (§6641 c.)

379. **Co-operative Schools.** 4. Two or more school cities, towns or townships or combinations thereof, may co-operate to establish and maintain vocational schools or departments for industrial, agricultural or domestic science education or in supervising the same, whenever the school board or township trustees of such school cities, towns or townships shall so determine and apportion the cost thereof among the cities, towns and townships co-operating. Whenever such co-operative schools or departments have been determined upon by any school cities, towns or townships, or combination thereof, the presidents of the school boards of the cities or towns and the township trustees of the townships co-operating shall constitute a board for

the management of such school or department, such board may adopt for a period of one year or more, a plan of organization, administration and support for such school or department and the plan, if approved by the state board of education shall constitute a binding contract between cities, towns and townships entering into a co-operation to support such schools and courses which shall be cancelled or annulled only by the vote of a majority of the school boards or township trustees of such school cities, towns or townships and the approval of the state board of education. (§6641d.)

380. Studies—How Outlined. 5. Elementary agriculture shall be taught in the grades in all town and township schools; elementary industrial work shall be taught in the grades in all city and town schools, and elementary domestic science shall be taught in the grades in all city, town and township schools. The state board of education shall outline a course of study for each of such grades as they may determine which shall be followed as a minimum requirement. The board shall also outline a course of study in agriculture, domestic science and industrial work, which they may require city, town and township high schools to offer as regular courses. After September 1, 1915, all teachers required to teach elementary agriculture, industrial work or domestic science shall have passed an examination in such subjects prepared by the state board of education. (§6641e.)

381. State Board of Education—Duties. 6. The state board of education is hereby authorized and directed to investigate and to aid in the introduction of industrial, agricultural and domestic science education, to aid cities, towns and townships to initiate and superintend the establishment and maintenance of schools and departments for the aforesaid forms of education; and to supervise and approve such schools and departments, as hereinafter provided. The board of education shall make a report annually to the general assembly describing the condition and progress of industrial, agricultural and domestic science education during the year and making such recommendations as they may deem advisable. (§6641f.)

382. State Board, Comprised of. (See §23.)

383. Appointments—How Made. 8. The state superintendent of public instruction, with the advice and approval of the state board of education, shall appoint a deputy superintendent in charge of industrial and domestic science education who shall act under the direction of the state superintendent of public instruction in carrying out the provisions of this act. The salary and term of office of such deputy shall be fixed by the board and he shall be removable by the board only for cause.

The state superintendent, with the approval of the state board of education, is authorized to co-operate with Purdue University in the appointment of some person actively connected with the agricultural extension work at Purdue as an agent in supervising agricultural education, who shall serve in a dual capacity as an agent of the state superintendent and an assistant at Purdue University. The board and the authorities of Purdue University may fix the proportion of the salary of such agent to be borne by the state and by the university. Such person shall be subject to removal for cause by the state board of education.

All expenses incurred in discharge of their duties by deputies and agents shall be paid by the state from funds provided for in this act. (§6641h.)

384. **Advisory Committee.** 9. Boards of education or township trustees administering approved vocational schools and departments for industrial, agricultural or domestic science education, shall, under a scheme to be approved by the state board of education, appoint an advisory committee composed of members representing local trades, industries and occupations. It shall be the duty of the advisory committee to counsel with and advise the board and other school officials having the management and supervision of such schools or departments. (§6641i.)

385. **Admission to Schools—To Whom Made.** 10. Any resident of any city, town or township in Indiana, which does not maintain an approved vocational school or department for industrial, agricultural or domestic science education offering the type of training which he desires, may make application for admission to such school or department maintained by another city, town or township or any school of secondary grade maintaining an approved industrial, agricultural or domestic science school or department. The state board of education, whose decision shall be final, may approve or disapprove such application. In making such decision the board shall take into consideration the opportunities for free vocational training in the community in which the applicant resides; the financial status of the community; the age, sex, preparation, aptitude and previous record of the applicant, and all other relevant circumstances.

The school city or town or township in which the person resides, who has been admitted as above provided, to an approved vocational school or department for industrial, agricultural or domestic science education, maintained by another city, town or township or other school, shall pay such tuition fee as may be fixed by the state board of education, and the state shall reimburse such school city or town or township as provided for in this act. If any school city or town or township neglects or refuses to pay for such tuition, it shall be liable therefor in an action of contract to the school city or town or township or cities and towns and townships or other school maintaining the school which the pupil with the approval of the said board attended. (§6641j.)

386. **Compulsory Attendance.** 11. In case the board of education or township trustee of any city, town or township have established approved vocational schools for the instruction of youths over fourteen years of age who are engaged in regular employment, in part-time classes, and have formally accepted the provisions of this section, such board or trustee are authorized to require all youths between the ages of fourteen and sixteen years who are regularly employed, to attend school not less than five hours per week between the hours of 8 a. m. and 5 p. m. during school term. (§6641k.)

387. **County Agent—Petition.** 12. Whenever twenty or more residents of a county, who are actively interested in agriculture, shall file a petition with the county board of education for a county agent, together with a deposit of $500.00 to be used in defraying expenses of such agent, the county board of education shall file said petition, within thirty days of its receipt, with the county council, which body shall, upon receipt of such pe-

tition, appropriate annually the sum of $1,500.00 to be used in paying the salary and other expenses of said county agent. When the county appropriation has been made the county board of education shall apply to Purdue University for the appointment of a county agent whose appointment shall be made annually and be subject to the approval of the county board of education, and the state board of education. When such appointment has been made, there shall be paid annually from the state fund provided for in this act, to Purdue University, to be paid to the county providing for a county agent, an amount sufficient to pay one-half the annual salary of the county agent appointed as herein provided: *Provided*, That not more than $1,000 shall be appropriated to any one county: *Provided, further*, That not more than thirty (30) counties during the year ending September 30, 1914; and sixty (60) counties during the year ending September 30, 1915, shall be entitled to state aid. It shall be the duty of such agent, under the supervision of Purdue University, to co-operate with farmers' institutes, farmers' clubs and other organizations, conduct practical farm demonstrations, boys' and girls' clubs and contest work and other movements for the advancement of agriculture and country life and to give advice to farmers on practical farm problems and aid the county superintendent of schools and the teachers in giving practical education in agriculture and domestic science. The county board of education is hereby authorized to file monthly bills covering salary and expenses of county agent, the same to be approved by Purdue university, with the county auditor who shall draw his warrant or warrants on the county treasurer for the payment of same. (§6641l.)

In view of par. 1, art. 8, of the Constitution making it the duty of the legislature to encourage by all suitable means, moral, intellectual, scientific and agricultural improvement, and to provide by law for a general and uniform system of public schools and in view of the purpose of the Act of 1913, known as the Vocational Education law, to meet existing industrial and social problems by an adaptation of the public schools to the needs of the people, par. 12 of the act providing for the appointment of a county agent to assist in giving practical education in agriculture, and for making appropriations of money for the purpose, is not invalid as conferring a special privilege on an arbitrary class of persons, since, while it provides only for agricultural education, other sections of the act provide for vocational education along other lines.

The Vocational Education law is designed to operate uniformly in all parts of the state where the same circumstances and conditions exist, and the uniformity of operation is not destroyed by the mere fact that par. 12 of the act providing for county agents to assist in giving practical education in agriculture, designates a different method for determining the need for that kind of education.

Section 12 of the Vocational Education law providing that the county council shall, upon the filing of a petition for the appointment of a county agent to assist in agricultural education, make a certain appropriation of money for that purpose, is mandatory, and hence mandamus will lie to compel the council to make the appropriation.—State of Indiana, ex rel. Simpson et al. v. Meeker et al., 182 Ind. 240.

County council can be mandated to appropriate salary for county agent, when same has been properly appointed.—Comer v. State, 110 N. E. 984.

388. Cities and Towns—Reimbursed. 13. Vocational schools or departments for industrial, agricultural and domestic science education shall so long as they are approved by the state board of education as to organization, location, equipment, courses of study, qualifications of teachers, methods of instruction, conditions of admission, employment of pupils and expenditures of money, constitute approved vocational schools or departments. School cities and towns and townships maintaining such approved vocational schools shall receive reimbursement as provided in this act. (§6641m.)

389. **State Maintenance.** 14. The state, in order to aid in the maintenance of approved vocational schools or departments for industrial, agricultural and domestic science education, shall, as provided in this act, pay annually to school cities and towns and townships maintaining such schools and departments an amount equal to two-thirds of the sum expended for instruction in vocational and technical subjects authorized and approved by the state board of education. Such cost of instruction shall consist of the total amount raised by local taxation and expended for the teachers of approved vocational and technical subjects. School cities and towns and townships that have paid claims for tuition in approved vocational schools shall be reimbursed by the state as provided in this act, to the extent of one-half the sums expended by such school cities and towns and townships in payment of such claims. (§6641n.)

390. **Claims for Reimbursement.** 15. Any school city, town or township having claims for reimbursement against the state under the provisions of this act shall present the same to the state board of education on or before July 1st of each year immediately following the completion of the work for which they are entitled to reimbursement from the state. The board shall if they approve the claim authorize its payment by the auditor of state who shall thereupon draw his warrant on the treasurer of state for the payment of the amount due such school city, town or township, from the fund provided in this act. (§6641o.)

391. **Salaries and Expenses.** 17. A sum sufficient to pay the salaries and expenses of the deputies, agents and employes in carrying out the provisions of this act, and an amount sufficient to carry out the provisions of section 12 is hereby appropriated annually for two years, to be available on and after April 1, 1913. Thereafter all salaries and expenses shall be paid from the fund provided for in this act. (§6641q.)

392. **When Effective.** 18. This act shall take effect as to the provisions for state aid to approved vocational schools at the beginning of the school year 1914–1915. All other provisions of this act, including the provisions for a county agent, as provided in section 12, shall be in force from and after its publication.

[Acts 1915. p. 153.]

393. **Schools—Cities First Class—Non-residents—Vocational Schools.** 1. That any common school corporation, in a city of this state having a population of more than one hundred thousand according to the last preceding United States census, which has established, or shall establish, according to law, vocational, trade and industrial schools in such city, may admit to such schools non-residents of the State of Indiana on the payment of reasonable laboratory and shop fees and a tuition fee of not more than the cost to said school corporation, per pupil, of conducting such vocational, trade and industrial schools; in estimating such cost the school corporation shall include nothing as a return or interest on capital invested in buildings, grounds or equipment or for interest on any bonds or on other obligations.

394. Property in Trust—Bonds Issued. 2. Any common school corporation in a city of this state having a population of more than one hundred thousand, according to the last preceding Unites States census, may accept property in trust to be used for common school, or vocational, trade or industrial school purposes, or for library purposes, and, as trustee, whether made such trustee by appointment of a court or by the founder of the trust, may perform such trust by using the trust property, consistently with the terms of the trust, in conducting schools or vocational, trade or industrial schools or libraries. If any such school city shall, by a resolution, or other formal corporate action, of its board of school commissioners, accept real estate or other property in trust, as above stated, and the trust property shall, at the time of acceptance, be subject to liens or charges of any kind which shall be in sums not greater in their aggregate amount than fifty (50) per cent of the then fair cash value of the full fee simple title of the trust property, were it free of the trust, and such value shall have been ascertained by written appraisal made by three disinterested residents of such city selected by such board of school commissioners, then, and in that event, the school city is hereby authorized, in its discretion, to pay off and discharge such liens or charges, or any part or parts thereof, and to make such payment at one time, or from time to time. For the purpose of raising money to pay off and discharge any such liens or charges and to erect and equip buildings on the trust real estate needed in the due execution of the trust, such school city is hereby given power, to be exercised at its discretion, to borrow money, and, from time to time, as required, to issue its bonds therefor in any sum needed for one or both of such purposes, but there shall not be outstanding at any one time bonds issued under the authority of this act in a principal sum greater than three hundred thousand dollars ($300,000). The power to issue such bonds shall be a continuing power and new issues for like purposes, in performing the same trust, or other trusts such as are herein mentioned, may be made when necessary, but at no time shall this power be executed while there shall be bonds issued under this power of three hundred thousand dollars ($300,000) principal outstanding, nor at any time to an amount which, added to such bonds then outstanding, would make an aggregate principal of more than $300,000. No bond, issued under the authority of this act, shall be delivered until the money therefor shall have been paid to the treasurer of the school city, issuing it; and interest thereon shall not begin to accrue before the time of such delivery. Such bonds shall bear interest at a rate of not more than four and one-half (4 1-2) per cent per annum, and the interest shall be payable semi-annually. The bonds shall be sold by the school city issuing them at not below par and shall mature not more than forty-five (45) years from their date and they shall be known as "educational trust bonds," and may be made to mature at one time or at different times, as the school city may choose.

Preparatory to offering any such bonds for sale such school city, by its board of school commissioners, shall give notice, for not less than three (3) weeks, of the date and place fixed for the sale and in the notice shall give a brief description of the bonds and of the mode of bidding and invite bids. Such notice shall be by advertisement for three weeks by publication, one time in one newspaper published in the city wherein the school corporation is located and one time in one newspaper published in the city of New York,

and by such other method of advertising, if any, as the board of school commissioners may prescribe. The board shall sell the bonds to the highest and best bidder, reserving, however, in its advertisements and notices, the right to reject any and all bids.

The proceeds arising from all sales of bonds, made in pursuance of this act, shall be kept in a separate fund and be known as "educational trust bond fund," and shall be used only for one or more of the purposes hereinbefore referred to as objects for which such bonds are hereby authorized to be issued.

395. Additional High School Buildings—Bonds May Be Issued. 3. That the common school corporation in any city of this state of more than one hundred thousand inhabitants, according to the last preceding United States census, when, by reason of the crowded condition of its schools, a necessity arises for providing additional high school buildings, in such school city, and when the school city shall, by formal resolution adopted and spread upon its minutes declare that such need exists and that such school city has not and will not have the means to build or equip the new building or to purchase the ground on which to locate the same and shall declare to what extent the school city's available means will fall short of meeting such needs then, and in that event, it shall be lawful for said school city to borrow money and issue the bonds of said school city, to the amount of such deficit, but not in a principal sum greater than one hundred and fifty thousand dollars in the case of any one such additional high school building. Such bonds shall be known as "additional high school bonds." They shall bear interest at a rate of not more than four and one-half (4 1-2) per cent per annum, interest payable semiannually; shall be sold for not less than par and shall mature at not more than forty-five (45) years from their date and may be made to mature all at one time or at different times. No bond so to be issued shall be delivered to the purchaser until the price therefor shall be paid to the treasurer of said school city, and no interest shall accrue thereon before such delivery. Such bonds shall be payable to bearer and shall be of the general form usual in municipal coupon bonds. Preparatory to offering such bonds for sale such school city shall give notice for not less than three (3) weeks of the date fixed for the sale of such bonds with a brief description thereof and of proposals therefor. Such notice shall be given by advertisement by one insertion in at least one newspaper published in the city wherein said school corporation is situate, and by one insertion in at least one newspaper published in the city of New York, and by such other advertisements as the school city may choose. The bonds shall be sold to the highest and best bidder and the right shall be reserved to the school city in all the said notices, to reject any and all bids.

The proceeds arising from such sale shall be used for no purpose other than an additional high school building, viz.: for the purchase of grounds for and the erection and equipping of additional buildings for high schools. The powers hereby given to issue bonds for the particular purposes herein enumerated shall be in addition to all other bond issuing power given by statute to such school cities.

396. Pending Litigation. 4. Nothing in this act contained shall be construed to affect any litigation pending at the time of its passage or in it-

self to authorize any such school city to act as trustee under any appointment heretofore made or made hereafter in any litigation now pending.

[Acts 1913, p. 109.]

397. Schools—Agricultural and Domestic Science—Petition—Levy. 1. That whenever twenty-five (25) per cent, of the legal voters of any township, in the State of Indiana, wherein is situated a township high school, shall petition the township trustee, of such township, for the erection, construction and equipping of a room or building upon the grounds or real estate upon which such high school is situate, in which to teach and instruct the students of such township in the arts of agriculture, domestic science, or physical or practical mental culture, and in which to hold school or township entertainments, or to be used for township purposes, the township trustee, with the concurrence of the advisory board of such township, shall be authorized and empowered to provide such room or building, as may best suit such needs in such township, by erecting, buiding and equipping such room or building, as aforesaid, to meet the requirements and necessities therefor. (§6623h.)

398. Buildings—Bonds Issued. 2. For the purpose of raising funds for the building and construction of such room or building, as is provided in section 1 of this act, the township trustee of such township is hereby authorized and empowered, with the concurrence and sanction of the advisory board of such township, to issue and sell the bonds of such township in an amount sufficient to pay for the construction and equipping of such room or building, and to levy a tax on the taxable property of such township in an amount sufficient to discharge and satisfy such bonds so issued and sold; *Provided*, such bonds shall be in equal series, and shall fall due, one each year, for a period of ten (10) years: *Provided, further*, That an amount not exceeding one (1) per cent of the total amount of taxable property of any township may be used and expended for the purpose of carrying out the provisions of this act. (§6623i.)

399. Township Trustee—Maintenance. 3. The township trustee, of any township, in the State of Indiana, shall, by the provisions of the act being first complied with shall cause such room or building to be constructed and equipped for the teaching and instruction of agriculture science, domestic science, physical culture, practical mental culture, or in which to hold any school or township entertainments, or for other township purposes, may, and he is hereby authorized and empowered to maintain such room or building, for the purpose aforesaid, and to make a levy of taxes, on the taxable property of such township, sufficient to raise the necessary funds with which to maintain such room or building, and to conduct therein the courses of instruction mentioned herein. (§6623 j.)

[Acts 1917, p. 310.]

400. Annual Tax Levy. 16. To provide a state fund to carry out the provisions of this act, there shall be levied annually as a part of the state common school levy an additional levy of one-half of one cent on each one hundred dollars of taxable property in the state, which shall constitute a fund for the purposes of this act. Any part of the fund remaining at the close

of any fiscal year shall be placed by the treasurer of state in a permanent fund for vocational education, the proceeds of which shall be used to aid in carrying out the provisions of this act.

[Acts 1917, p. 344. Approved March 7, 1917.]

401. Acceptance of Act of Congress—Vocational Education. 1. That the provisions of an act of Congress entitled "An act to provide for the promotion of vocational education; to provide for co-operation with the states in the promotion of such education in agriculture and the trades and industries; to provide for co-operation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," are hereby accepted by the State of Indiana as to:

a. Appropriations for the salaries of teachers, supervisors or directors of agricultural subjects.

b. Appropriations for salaries for teachers of trade and industrial subjects.

c. Appropriations for the training of teachers of vocational subjects.

402. State Treasurer Custodian of Funds. 2. The state treasurer is hereby designated as the custodian for vocational education and shall receive money paid to the state from the United States treasury under the provisions of said act of congress and shall pay the same upon the warrant of the auditor of state when the same is certified by the state board of education.

403. Duties of Board of Education. 3. The state board of education is hereby designated as the state board to carry out the provisions of said act so far as the same relate to the co-operation of the state and federal government and shall have full power to take all necessary steps in the formulation of plans for the promotion of education in agriculture, in trades and industries, and to formulate and execute plans for the preparation of teachers of vocational subjects.

CHAPTER XXI.

Apportionment of Revenue.

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411.	Payment of excess.	421.	Interest on sinking fund.
412.	Unapportioned balances.	422.	Surplus dog tax fund.
413.	County auditor's apportionment.	423.	Duty of school trustee.
		424.	Annual statement.

[Acts 1897, p. 291. Approved March 8, 1897.]

404. To be made Semi-annually. 109. There shall be two apportionments of the school revenue for tuition made in each year by the state superintendent of public instruction—one on the fourth Monday in June, and the other on the first day of January, unless the said day of the month should be Sunday, and, if so, on the day following. (§6465.)

405. Reports of County Auditors. 110. To enable the superintendent to make said apportionments, and to ascertain the amount of said revenue collected and ready for that purpose, the auditors of the several counties of the state shall, promptly, after making the settlements with the county treasurers of the respective counties in May for the amount collected on tax list, and in December for the amount of delinquent tax collected, make report to said superintendent of the precise amount of school revenue for tuition collected in their respective counties and ready for apportionment and distribution; which report shall be verified by the oath or affirmation of the auditor indorsed thereon. (§6466.)

406. When and What County Auditor reports. 11. The first of said reports in each year shall not be delayed later than the third Monday in June, and the second not later than the twenty-fifth day of December. Said report shall show:

First. The amount of school tax collected since the last report, whether upon the current year's tax list or delinquent tax.

Second. The amount of interest collected since the last semi-annual report, and the amount, if any, not previously reported, upon loans of common school funds, and on any indebtedness which is due or payable to said funds, arising from the sale of seminary property or otherwise.

Third. The amount derived from liquor licenses and unclaimed fees not previously reported.

Fourth. The total amount of school revenue thus collected and ready for apportionment.

Fifth. The income derived from the congressional township school fund, including the interest on loans of said fund, and on deferred payments for school lands which have been sold, and the rents and profits derived from the leasing or renting of any such lands, or otherwise.

Sixth. The amount of said income from the congressional township fund on hand for distribution in parts of the townships in the adjacent counties, specifying the amount on hand for each of the several counties. (§6467.)

[Acts 1865, p. 3. Approved March 6, 1865.]

407. When Congressional Township Divided. 112. When the congressional township lies partly in one county and partly in another, the auditor of the county in which the fund of such township is managed shall notify the auditor of the county in which any portion is situated of the amount due to such portion. (§6468.)

408. Auditor Failing to Report—Penalty. 113. On the failure of any county auditor to make his said semi-annual report in time for said apportionments, his county shall be subject to a diminution of one hundred dollars in the next apportionment of said revenue by the superintendent. The sum thus withheld may be collected from said auditor, in a suit before a justice of the peace, prosecuted in the name of the state, by any person living in said county who has children enumerated for school purposes for the current year, who is aggrieved by said diminution. Said suit shall be commenced within two years from the time when said report was due, and not afterward: *Provided*, That said auditor may discharge himself from liability to such suit by a certificate of the postmaster that said report was mailed in due time, together with his own affidavit of that fact. (§6469.)

[Acts 1865, p. 3. Approved March 6, 1865.]

409. Printed Statement. 115. Said superintendent shall make out and have printed a statement showing:

First. The enumeration of children in each county.

Second. The amount of school revenue ready for apportionment in each county, and the source from which the same is derived, including said addition from the state indebtedness.

Third. The distributive share thereof apportioned to each county.

He shall file a copy of said statement with the auditor of state and treasurer of state, and he shall forward a copy thereof, by mail, to each of the county auditors, county superintendents and county treasurers of the state. (§6471.)

410. Payment to Counties. 116. The auditor of state shall, at the time of making the semi-annual settlements with the several county treasurers, give them each a warrant on the state treasury for the distributive share of said revenue apportioned to their respective counties, the amount of which shall be retained by said treasurers out of the money or revenue in their hands; and the balance ascertained to be due to the state, of ordinary state revenue or other revenue, together with said warrant, shall be paid into the

state treasury. The settlement between the respective county treasurers and the auditor of state, and the drawing of the warrants for the amounts apportioned to their respective counties; the ascertainment of the balance payable into the state treasury, and the payment of said balance, and retention by the county treasurers of their distributive shares of school revenue, according to said apportionment—shall be concurrent acts, and shall be done and performed in such a manner as to effect a complete semi-annual disbursement, from the state treasury to the several counties of the state, of all the school revenues then apportioned to them, and as soon as practicable after the apportionment is made. (§6472.)

[Acts 1885, p. 208. Approved April 13, 1885.]

411. Payment of Excess. 1. The auditor of state shall, at the time of making the semi-annual settlements with the several county treasurers, give them each a warrant on the state treasury for the state school revenues collected in their respective counties, the amount of which shall be retained by said treasurers, and when the superintendent of public instruction shall have made his semi-annual apportionments of school revenue for tuition to the several counties of the state, the auditor of state shall draw his warrant upon the state treasury to the respective county treasurers to which there may be due a greater amount than the state school revenue which has been collected in said counties, and for which a warrant as hereinbefore provided has been issued to them, and said county treasurers to whom warrants have been issued at the semi-annual settlements for more than their distributive share of said school revenue shall, upon notice being given them thereof by the auditor of state, forthwith pay such excess into the state treasury. (§6473.)

[Acts 1865, p. 3. Approved March 6, 1865.]

412. Unapportioned Balances. 117. If at any time, from any cause whatever, an unapportioned balance of school revenue shall appear in the state treasury, other than that which is nominally therein at the passage of this act, the superintendent of public instruction shall add said balance to the sum to be apportioned, and apportion it at the next succeeding apportionment after such balance so appears. (§6474.)

[Acts 1897, p. 2[illegible]. Approved March 8, 1897.]

413. County Auditor's Apportionment. 118. The auditor of each county shall, semi-annually, on the second Monday of July and on the last Monday in January make apportionment of the school revenue, to which his county is entitled, to the several townships and incorporated towns and cities of the county; which apportionment shall be paid to the school treasurer of each township and incorporated town and city by the county treasurer. In making the said apportionment and distribution thereof, the auditor shall ascertain the amount of the congressional township school revenue belonging to each city, town or township, and shall apportion the other school revenue, so as to equalize the amount of available school revenue for tuition to each city, town and township, as near as may be, according to the enumeration of children therein, and report the amount apportioned to the superintendent of public instruction, verified by affidavit: *Provided, however,* That in no case shall the income of the congressional township school fund belong-

ing to any congressional township, or part of such township, be diminished by such apportionment, or diverted or distributed to any other township: *Be it also provided*, That in making the said apportionment and distribution of the state tuition revenues apportioned to the county by the superintendent of public instruction, in case any school corporation shall not have expended for tuition purposes in any school year an amount as great as the amount of state tuition revenue apportioned and distributed to said corporation by the auditor for said school year, then it shall be the duty of the auditor, at the first apportionment, after the annual report of the receipts and expenditures of said school corporation shall have been filed with the county commissioners, to deduct from the whole amount of state tuition revenue apportioned to said school corporation an amount equal to the difference between the amount of state tuition revenue apportioned and distributed to said school corporation for use in such school year, and the whole amount shown by such annual report to have been actually expended for tuition purposes, and there shall be paid to the treasurer of said school corporation the sum remaining after such amount shall have been deducted, and the county auditor shall include all such deduction in his report to the state superintendent of public instruction as tuition revenue collected in his county and ready for distribution at the next apportionment: *Provided*, That funds arising from the local tuition tax shall not be considered in making the deductions provided for in this section, nor included in the said report to the state superintendent of public instruction. Any neglect or failure of any auditor to comply with the provisions of this section of this act shall be and constitute a misdemeanor, and upon conviction of any such auditor of the violation thereof, he shall be fined in any sum not less than the amount of such unexpended balance nor more than double the amount thereof. (§6475.)

414. Apportionment Among Counties. 2. The state superintendent of public instruction shall, on the days fixed by law for his apportionment of the school revenue, in each year, add to the sum total of said revenue, in readiness in each county for apportionment, any amount in the state treasury ready for apportionment, together with 94.8 per cent of the sum collected by virtue of the levy provided for in section one of this act; and, after said addition, the superintendent shall apportion the whole of said sum to the several counties of the state, according to the last enumeration of children therein, with due reference to the diminution provided for by law. (§6433.)

415. Distribution of 5.2 per cent of Fund. 3. A sum equal to 5.2 per cent of the amount collected under the levy provided for in section one of this act, shall be a fund to be distributed as hereinafter provided. (§6434.)

416. Town or Township Deficiency—Certificate. 4. Whenever any trustee of a township or board of trustees of any school town shall ascertain that there is not a sufficient amount of tuition revenue in his or their hands to enable him or them to maintain the public schools therein for the minimum term now or hereafter provided by law in such current school year, he or they, as the case may be, shall certify in writing under oath such fact to the county superintendent of his or their county, stating therein the rate of the levy for local tuition purposes on each one hundred dollars, and the taxes on each taxable poll made for the supplementary tuition tax by such township or

school town in the year immediately previous to the school year in which such deficiency occurs, or will occur; also, stating the full amount received for tuition from each source, the names and number of teachers employed, the rate per diem paid them, the number of days each has taught and when he began teaching, and an estimate of the amount that will be necessary over and above the tuition revenue then on hand to complete such legal minimum term of all the public schools in such school corporation. Said certificate shall be executed in duplicate. Said county superintendent shall immediately examine such certificate, and if he shall find the facts stated therein to be true, and shall further find that such school corporation has levied the highest amount authorized by law for such school municipality as supplementary tuition tax for the year in which such deficiency will occur, he shall forward one of such certificates to the state superintendent of public instruction, together with the result of his examination, and with the name and postoffice address of such township trustee or the treasurer of such school corporation. (§6435.)

417. Superintendent and Auditor—Duties. 5. Upon receipt of such statement from the county superintendent, the said superintendent of public instruction shall issue an order on the auditor of state in favor of such school corporation, if there be funds in the state treasury available for that purpose, for the amount necessary to bring the school term of said township or school corporation up to the minimum legal term, specifying the name of the trustee of such township, or the treasurer of said town, and his postoffice address. And the auditor of state shall at once draw a warrant on the treasurer of state, payable out of the fund provided for in section 3 of this act in favor of said township or town, payable to the trustee of such township or treasurer of such town, and mail the same to him: *Provided*, No such township trustee or treasurer of such school town shall be entitled to draw or receive the funds provided in this act unless said township trustee or school board of trustees has levied a local tuition tax of at least twenty-five cents on $100.00 of taxable property in such township or school town: *And providing*, That where any such school trustee or corporation is maintaining a seven months' term of school and finds the amount of tuition revenue insufficient for such purpose, such trustee or the treasurer of such school corporation shall be entitled to draw or receive the funds provided in this act in the event only such trustee or school board has levied a local tuition tax of not less than forty cents on $100.00 of taxable property in such township or school town. (As amended 1907, p. 449, §6436.)

418. Uses of Fund. 6. Said township trustee or school board of trustees shall use the amount so received from the state for the payment of the salaries of teachers employed in his township or their town to enable him or them to maintain schools therein for the full term as required by law during the year for which it was received, and shall use it for no other purpose. (§6437.)

419. Liability for Fund. 7. The township trustee, or treasurer of any town school board and the sureties on their bonds receiving such funds from the state, shall be liable for the same as for any other township or school funds they may receive in an official capacity. (§6438.)

420. Surplus. 8. Whatever unused surplus shall remain of the fund provided in section 3 of the act hereby amended at the close of any fiscal year shall be and remain a part of the common school tuition fund of the state. (As amended 1907, p. 449. §6439.)

[Acts 1865, p. 139. Approved March 21, 1865.]

421. Interest on Sinking Fund. 1. All interest accrued or accruing on the sinking fund, or any other fund, held by this state for the benefit of the common schools of this state, on and after the first day of January, one thousand eight hundred and sixty-five is hereby set apart for distribution, as other revenues are distributed, for the support of the common schools of this state. (§6476.)

[Acts 1897, p. 178. Approved March 6, 1897.]

422. Surplus Dog Tax Fund. 13. The trustee shall register all losses in the order in which they are reported: *Provided*, That no person shall receive pay for sheep, horses, cattle, swine or other live stock or fowls killed or maimed by any dog or dogs owned or harbored by himself: *Provided, further*, That the dog fund heretofore collected shall be added to and applied with the fund arising under the provisions of this act. And when it shall so occur on the first Monday of March of any year in any township in the State of Indiana that said fund shall accumulate to an amount exceeding one hundred dollars over and above orders drawn on the same, the surplus aforesaid shall be paid and transferred to the county treasurer of the county in which such township is located and the fund arising from such surplus from the township of the county shall constitute a county dog fund and shall be distributed among the townships of the county in which the orders drawn against the dog fund exceed the money on hand. This distribution shall be made on the second Monday in March of each year, and if said county dog fund be insufficient to pay for all the live stock or fowls maimed or killed by dogs of all the townships, the distribution shall be made in the ratio of the orders drawn against the dog fund of the townships and unpaid and unprovided for, which ratio shall be obtained from the report of the trustees of the townships made to the auditor of the county which is hereby directed shall be made by each township trustee of the county upon the first Monday of March of each year, which report shall show all receipts into the dog fund of his township, and all orders drawn against the same in the order in which they were drawn. And when it shall occur again upon the second Monday in March of any year that there is a surplus left of the county dog fund after provisions have been made for the payment for all the live stock or fowls killed or maimed, of all the townships of the county, such surplus shall be distributed for the schools of the county in the same manner the common school revenue of such county is distributed. (§3270.)

1. Towns and Cities. A town or city within a township is entitled to its proportionate share of the surplus dog fund.—Taggart v. State, 142 Ind. 668 (overruling School City of South Bend v. Jaquith, 90 Ind. 495); Maloy v. Madget, 47 Ind. 241. See Flower v. State, 133 Ind. 453.

[Acts 1873, p. 68. In force March 8, 1873.]

423. Duty of School Trustee. 7. The school trustees of every township incorporated town or city shall receive the special school revenue belonging

thereto, and the revenue for tuition which may be apportioned to his township, town or city by the state for tuition or the common schools, and shall pay out the same for the purpose for which such revenue[s] were collected and appropriated. Such trustees shall keep accurate accounts of the receipts and expenditures of such revenues, and shall render to the county commissioners annually, on the first Monday of August, for the school year ending on the 31st day of July, and as much oftener as they may require, a report thereof in writing. Said board of commissioners shall hold a session on said Monday to receive said reports. They shall clearly and separately state:

First. The amount of special school revenue, and of school revenue for tuition, on hand at the commencement of the year then ending.

Second. The amount of each kind of revenue received within the year, giving the amount of tuition revenue received at each semi-annual apportionment thereof.

Third. The amount of each kind of revenue paid out and expended within the year.

Fourth. The amount of each kind of revenue on hand at the date of said report, to be carried to the new account, and shall, with said report, present and file a detailed account current of the receipts and payments for the year, and support the same by proper vouchers, which report and account current shall each be duly verified by affidavit, and when the said county commissioners are satisfied that said report is full, accurate and right in all respects, and that said account is just and true, they shall allow and pass the same, which shall have the effect to credit the trustee for the expenditures. A copy of said report, as passed and allowed by the county commissioners, shall, within ten days after its date, be filed by the trustee with the county superintendent of the county, and upon failure of the trustee to discharge any of the duties required of him relative to schools and school revenues, the board of county commissioners shall cause suit to be instituted against him on his official bond, and in case of recovery against him, the court rendering the judgment shall assess upon the amount thereof ten per cent damages, to be included in said judgment. (As amended Acts 1883, p. 118. §6407.)

424. Annual Statement. 9. The township trustees and the school trustees of incorporated towns and cities shall, immediately after their annual settlements with the county commissioners in October, make a full statement of all their receipts and expenditures, for the year preceding, relative to their schools. (§6409.)

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[Acts 1865, p. 3. Approved March 6, 1865.]

425. What Constitutes. The funds heretofore known and designated as the surplus revenue fund, all funds heretofore appropriated to the common schools, the Saline fund, the bank tax fund, the fund which has been derived or may be derived from the sale of county seminaries and the property belonging thereto, the moneys and properties heretofore held for such seminaries, all fines assessed for breaches of the penal laws of the state, all forfeitures which may accrue, all lands and other estate which shall escheat to the state for want of heirs or kindred entitled to the inheritance thereof, all lands which have been granted, or may be granted hereafter, to the state, when no special object is expressed in the grant, the proceeds of the sales of the swamp lands granted to the State of Indiana by the act of congress of September, 1850, the taxes which may be assessed from time to time upon the property of corporations for common school purposes, and the fund arising from the one hundred and fourteenth section of the charter of the state bank of Indiana, shall be denominated the "common school fund." The fund derived from the sale of congressional township school lands, and the unsold congressional township lands, at the reasonable value thereof, shall be denominated the "congressional township school fund," and shall never be diminished in amount, the income of which, together with the taxes mentioned and specified in the first section of this act, the money and income derived from licenses for the sale of intoxicating liquors, and unclaimed fees, as provided by law, shall be denominated the "school revenue for tuition," the whole of which is hereby appropriated, and shall be applied exclusively to furnishing tuition to the common schools of the state, without any deduction for the expenses of collection or disbursement. (§6182.)

1. Two Distinct Funds. This section, in conformity with the decisions cited under section 1, provides that there shall be two distinct funds, the "common school fund" and the "congressional township school fund," which must be kept apart and managed separately (§482). Under the former title are consolidated all the funds named in the constitution, except the congressional township fund, and in addition thereto "all funds heretofore appropriated to common schools," referring to all moneys arising from the sale of estray animals, and property taken up adrift, which were

by an act approved January 15, 1844 (§480), transferred to the common school fund of the county to be ratably apportioned among the several school districts thereof. Neither of these funds shall ever be diminished, for the term common school fund in the constitution includes both.—Davee v. State, 7 App. 71.

[Acts 1907, p. 64. In force April 10, 1907.]

426. Transfer and Distribution of Funds. 1. That balance now in the state treasury and designated in the accounts of the office of the auditor of state as "common school fund balance," "old sinking fund," "surplus revenue fund," "excess bid sinking fund," "sales common school lands" and "sales swamp land" are hereby declared to be a part of the common school fund of the state, and the auditor of state is hereby directed to distribute such funds to the several counties of the state upon the basis of the last enumeration of school children reported for the purpose of distribution of the school revenue for tuition. When such distribution is made, warrants for the sum due to each county shall be drawn upon the state treasury and payment thereof made to the several county treasurers of the state. The funds so paid shall be and become a part of the common school funds of the state in the control of the respective counties and shall be loaned and managed by the several counties and kept and preserved inviolate in the same manner as the other common school funds of the state are now loaned, managed and preserved. Any funds which shall hereafter accrue to the state and be paid into the treasury thereof on account of either of such funds, or on account of any other fund, which by the constitution and laws of this state, becomes a part of the common school fund, shall be by the auditor of state bi-annually distributed to the several counties to be by them held, as provided in this section, and the laws of this state, and such subsequent distribution shall be made upon the basis of the then last preceding enumeration of the school children of the state.

MEMORANDA.

Common school fund balance, $5,741.52; old sinking fund, $467.78; surplus revenue fund, $500.00; excess bid sinking fund, $1,933.25; sales common school lands, $9,323.38; sales swamp lands, $23,598.55; unclaimed estates, $58,064.47; total, $99,628.95. (§6183.)

1. For section 2 of this act providing for suits to have escheated estates declared a part of the common school fund, see §3006.

[Acts 1844, p. 86. Approved and in force January 15, 1844.]

427. Estrays and Property Adrift. 1. All moneys arising from the sale of estray animals and property taken up adrift, so soon as the same shall have vested absolutely in any county, shall be by the proper officers transferred to the common school fund of the county, and shall be ratably apportioned amongst the several school districts [corporations] thereof.

428. County Coroners—Funds not Called for—Disposition. 12. It shall be the duty of the treasurer if the money aforesaid shall not be called for within one year from the time of receiving the same, to place said sum of money to the credit of the common school fund principal, and where there is any money now heretofore loaned by the county treasurer on account of the

provisions of this act, then said money, principal and interest shall become a part of the common school fund of the state as soon as practicable. (§9444.)

When the property found on the body is not claimed, it becomes the property of the school fund of the county.—State v. Board, 85 Ind. 489.

[Acts 1917, p. 134.]

429. Ferry—Circus—Traveling Merchant—License. 1. That for a license to keep a ferry, there shall be paid to the proper county treasurer not less than three dollars ($3) nor more than fifty dollars ($50).

For traveling merchants and peddlers, who are not residents of this state, to vend foreign merchandise, five dollar ($5), where the capital employed does not exceed one thousand dollars ($1,000); seven dollars and fifty cents ($7.50) for any amount over one thousand dollars ($1,000) and not exceeding two thousand dollars ($2,000); ten dollars ($10) for any amount over two thousand dollars ($2,000) and not exceeding five thousand dollars ($5,000); and twenty dollars ($20) for any amount exceeding five thousand dollars ($5,000); to be paid in each county where they shall offer for sale any such merchandise.

To exhibit, for pay, any caravan, rope or wire dancing, legerdemain, ventriloquism, puppet-show, concert, or any other similar exhibition of whatever name or description, except carnivals, circuses, wagon shows, whether by traveling or stationary troupe or troupes, individually or collectively, one dollar ($1) for each separate performance.

To exhibit any carnival, five dollars ($5) per day for each separate attraction or show constituting such carnival. Which said license fee shall be paid, personally by the owner or agent of the person, firm or corporation owning or operating said carnival.

To exhibit any circus or tent show, five dollars ($5) per day if less than ten (10) cars are required to transport such circus; fifteen dollars ($15) per day if at least ten (10) cars but less than twenty (20) cars are required; twenty dollars ($20) per day if at least twenty (20) cars but less than forty (40) cars are required; and twenty-five dollars ($25) per day if forty (40) cars or more are required.

To exhibit any wagon show, one dollar ($1) per day.

Each theater and moving picture show shall pay an annual license fee of five dollars ($5).

At least ten (10) days prior to the date on which any such circus, tent show or carnival enters the state, the responsible agent of the person, firm or corporation owning or operating any such circus, tent show or carnival, shall file with the auditor of state a statement designating the proposed or contemplated itinerary of such circus, tent show or carnival through the state with a schedule of the name of all cities or towns in which such circus, tent show or carnival is to be exhibited. If any change or changes are made in the proposed itinerary or the schedule of cities or towns in which such circus, tent show or carnival is to be exhibited, a supplemental statement or supplemental statements shall be filed with the auditor of state accordingly, indicating such change or changes.

To carry on the business of stock and exchange broker, in buying or selling stock, bank notes, gold, silver, promissory notes and bills of exchange, whether by individuals or corporations, one hundred dollars ($100) for one (1) year:

Provided, All actions and right of actions now pending under provisions of the act which is by this act repealed may be prosecuted under the provisions of the law in force at the time this act took effect.

430. License Fund Paid to School Fund. 2. The money arising from the exhibitions mentioned in the foregoing section shall be paid over, by the county treasurers of their respective counties, to the treasurer of state on the first day of each calendar month and shall be added to the school fund and distributed as other money in the school fund is distributed.

431. Penalty. 3. That any person, firm or corporation that shall fail or refuse to pay the license fees provided for by this act, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding fifty dollars ($50). Each day's failure to pay said license fee shall be considered a separate and distinct offense.

[Acts 1911, p. 161. Approved March 2, 1911.]

432. Hydrophobia Fund—County Auditor. 1. The county auditor shall annually on the first of April of each year pay to the state auditor five per cent of the surplus dog tax collected from the townships of the county. The amount received from all county auditors shall constitute a state hydrophobia fund in the state treasury: *Provided*, That if at the end of the fiscal year such fund shall exceed three thousand dollars ($3,000) the surplus shall be turned into the school fund of the state.

The remaining sections of this act relate to the treatment of hydrophobia by the state authorities.

[Acts 1865, p. 3. Approved March 6, 1865.]

433. Counties Liable. 3. The several counties of this state shall be held liable for the preservation of so much of said fund as is intrusted or may have been intrusted to them, and for the payment of the annual interest thereon at the rate established by law, the payment of which interest shall be full and complete every year, and shall so appear in the auditor's report to the superintendent of public instruction; and the said superintendent shall, at any time, when he discovers, from the report or otherwise, that there is a deficit in the amount collected, for want of prompt collection, or otherwise, direct the attention of the board of county commissioners and the county auditor to the fact, and said board of commissioners are hereby authorized and required to provide for such deficit in their respective counties. (§6184.)

1. INTEREST. This section is designed to carry out the requirements of the constitution (§6). The interest on the schools funds is at the rate of six per cent.

2. DEFICITS MADE UP. The board of county commissioners is required to make up losses to both the principal and interest of the funds, at their June meeting (§547), by authorizing the auditor to draw a warrant for the amount of the deficit upon the general fund of the county in favor of the particular school fund found deficient, and upon failure of the board so to act they become liable to an action in the name of the state upon the relation of the superintendent of public instruction, who may notify the proper prosecuting attorney to bring such action.

434. Account of Fund. 151. The county auditors of the several counties of this state shall, immediately upon the taking effect of this act, open an account upon their books with each of the congressional townships of their respective counties whose funds are managed by them, and transfer

to such account from the common school fund account the principal of the congressional township fund, as it existed before its consolidation with the common school fund, and shall thereafter keep a separate account of the principal and interest of the congressional township fund of each township. (§6185.)

1. Separation of Funds. This section requires the separation of the congressional township fund from the common school fund, with which it had been consolidated by the school law of 1852 in accordance with the constitution (§1). But the courts have held that the proceeds of the sale of the school sections could not be diverted from the use of the inhabitants of the congressional townships, to whom they had been granted by the United States.—State v. Springfield Tp., 6 Ind. 83; 22 How. (U. S.) 56; Quick v. Whitewater Tp., 7 Ind. 570; Quick v. Springfield Tp., 7 Ind. 636.

2. Proceeds of Lands. When the school sections have been sold, the proceeds of the sale are managed by the county auditor, and the interest thereon distributed by him through the county treasury to the proper school trustees.—Davis v. State, 44 Ind. 38; affirmed, 94 U. S. (4 Otto) 792.

[Acts 1873, p. 79. Approved March 7, 1873.]

435. Custody of Lands—Report of Income. 44. The custody and care of all lands belonging to the congressional township fund shall be with the trustee of the civil township in which the same shall be situated; who shall report, annually, to the auditor, by the fourth Monday in March, the annual income derived therefrom, to the township. And the report shall embrace a fully itemized statement of his rent account of such lands; to whom and for what amount the same was rented to each tenant; and whether the rents have been collected or not; and if any portion has not been collected, he should state fully the reasons why the same has not been collected. Any trustee who has heretofore failed and neglected to so report shall embrace in his first report such itemized statement and showing for each preceding year not so reported, whether by himself or his predecessors; and the amount of school funds for any year, to which such township might otherwise be entitled, shall be withheld, and not paid over to such trustee, if the rental value of such lands for such terms shall equal or exceed the township's otherwise portion of the school fund; and it shall be the duty of such trustee to pay into the county treasury all rents collected and reported by him as aforesaid. (§6186.)

1. Rents Distributed. The rents of school lands shall be paid into the county treasury, to be distributed by the auditor together with, and in the same manner, as the interest on the congressional township fund. And a township trustee who fails to pay the rents into the county treasury, as therein required, is, with his county, liable on his bond for the amount, with ten per cent damages in a suit in the name of the state on relation of the board of commissioners.—Davis v. State, 44 Ind. 38; Davis v. Indiana, 94 U. S. (4 Otto) 792.

436. Leasing Lands. 45. He shall have power, when directed so to do by a vote, or by the written direction of a majority of the voters of the congressional township to which the same belongs, to lease such lands for any term not exceeding seven years, reserving rents, payable in money, property, or improvements upon the land, as may be directed by a majority of such voters. (§6187.)

437. Divided School Section. 46. When the sixteenth section, or the section which may be granted in lieu thereof, shall be divided by a county or civil township line, or where the substituted section lies in any other county

in the state, the voters of the congressional township to which the same belongs shall designate, by vote or by the written direction of a majority, the trustee of one of the civil townships including a part of said section, to have the care and custody of said section, and to carry out the directions of the voters of the township in relation thereto; and the trustee so designated shall have the same powers and perform the same duties as if the entire section was situated within the limits of the civil township, and receive from the county treasurer the revenue derived from funds accrued from said sale. (§6188.)

438. Boundaries of Townships. 148. The county commissioners of each county are required to conform the boundary of their civil townships to those of congressional townships, so far as it is practicable to do so. (§6189.)

[Acts 1877, p. 66. Approved March 12, 1877.]

439. School Township, when County Lines Divide. 1. Where county lines divide a congressional township, the proper officer in the county in which the congressional school lands are situated, or would be situated if unsold, shall control such lands and the funds arising therefrom, as in this act is provided. (§6190.)

440. Auditor's Statement as to Children. 2. When the enumeration is made of children, under the school laws, the auditor of each county shall furnish to the auditor of the other a statement showing the number of children in each congressional township; and to enable him to do this correctly, the person or officer making the enumeration shall correctly state the number of children in the congressional township so divided by county lines. (§6191.)

441. Auditor's Duty. 3. The auditor of the county having control of the fund shall open an account with the other county as to each congressional township, and credit said other county with all money on hand, all securities for lands sold, and, if any lands be unsold, with the proceeds when sold; and, from time to time, as money comes in, shall credit such county with such money —that is to say, shall divide such money pro rata on the basis of such enumeration and enter the credit; and shall pay over such money, be it little or much, to the treasurer of such other county, file his receipt with the auditor and take a quietus, and so continue until the whole portion due such other county is paid over. Such payments shall be made quarterly, to correspond with the fiscal year. (§6192.)

442. Account and Distribution. 4. Such auditor to the county controlling such lands and fund shall also open an account with such lands and with the township in his own county divided by county line, and shall debit and credit such accounts as he receives money or securities from sales or collections from lands forfeited and resold, and all expenses in full and regular order of entry and accounting, so he can tell, at any time, the condition of the lands, funds and securities. He shall collect in, as fast as possible, all moneys outstanding, make proper distribution as per enumeration, and credit the proper account in said county, and continue to pay over to the other county, as above provided, until each county has its proper proportion of said funds. (§6193.)

443. Duties of the Other Auditor. 5. The auditor of such other county shall open an account with the proper township in his county, and

credit such fund as fast as received; and, when in sufficient amount, shall loan the same as now required by law. Both auditors shall make a statement of the condition of the fund annually, at the end of the proper fiscal year, and file one copy with the superintendent of public instruction, lay one before the county commissioners (which latter shall be spread upon their record), and both shall be sworn to by the auditor. (§6194.)

444. Account—Re-adjustment. 6. The process contemplated by this act shall continue so long as any lands remain unsold, or any securities are uncollected, and until each county shall have become possessed of its proper share of such fund in money, when the accounts here required to be kept shall be closed and reported as aforesaid: *Provided*, That in the year 1890, and every two years thereafter, there shall be a readjustment of said fund belonging to such congressional township, upon the basis of the number of children enumerated in each part of such congressional township, as hereinbefore provided; and the auditor having a surplus of such fund, according to such basis, shall pay to the treasurer of the county interested the amount of money due said county upon the per capita basis then existing. For the services here provided for, the auditor shall be allowed the same fees for records, certificates and other labor, as is allowed by law for other similar services. (§6195.)

1. The auditor's fee must be paid out of the general fund of the county.—Hanlon v. Board, 53 Ind. 123.

[Acts 1865, p. 3. Approved March 6, 1865.]

445. Power of Trustee. 47. The proper trustee shall have all the rights and powers of a landlord, in his official name, in coercing fulfillment of contracts relating to such lands, and preventing waste or damage, or for the recovery of the same when committed. (§6196.)

446. Sale of School Lands. 48. At any time when five voters of any congressional township shall, by petition to the trustee having charge of the school lands belonging to such township, set forth their desire for the sale of all or any part of the school land, the trustee shall give public notice, in five public places in such township, of the time and place in such township when and where balloting will be had to determine whether the lands shall be sold as petitioned for or not; which notice shall be given at least twenty days before the time specified therein. (§6197.)

1. When Petition Necessary. A petition is only necessary where land is sold the first time, and is not necessary where it is sold to recover the purchase money.—McPheters v. Wright, 110 Ind. 519.

447. Proceedings to Sell. 49. A copy of such petition shall be entered on the book containing the record of the proceedings of such trustee; and his action thereon shall, also, be recorded. (§6198.)

448. Ballots. 50. If a voter favor the sale of such lands, he shall write on his ballot the word "sale;" if he opposes the sale, he shall write the words "no sale." (§6199.)

449. Results of Election. 51. No sale shall be allowed unless a majority of all the votes cast at such election shall be in favor of such sale; nor unless the number of votes constituting such majority shall exceed fifteen. (§6200.)

450. Certificate of Vote. 52. The trustee shall attend at the time and place specified, and shall make out a certificate showing the number of votes given for and against the sale; which shall be signed by him and filed in his office; and he shall enter the same upon his record-book. (§6201.)

451. Trustee's duty. 53. Said trustee, if satisfied that a majority of all, and more than fifteen, voters have voted for such sale, shall enter the same on his record-book, and proceed:

First. To divide the lands, so voted to be sold, into such lots as will secure the best price.

Second. To affix a minimum price to each lot, not less than one dollar and twenty-five cents per acre, below which it shall not be sold.

Third. To certify such division and appraisement to the proper county auditor, together with a copy of all his proceedings in relation to the sale of said lands. (§6202.)

452. Order and Conduct of Sale—Fee. 54. Such certificate and return shall, by such auditor, be laid before the board of county commissioners, at their first meeting thereafter; and said board, if satisfied that the requirements of the law have been substantially complied with, shall direct such lands to be sold; which sale shall be conducted as follows:

First. It shall be made by the auditor and treasurer.

Second. Four week's notice of the same shall be given, by posting notices thereof in three public places of the township where the land is situated, and at the court house door, and by publication in a newspaper printed in said county, if any—otherwise, in a newspaper of any county in the state situated nearest thereto. The sale shall be made by the auditor, at public auction, at the door of the court house of the county in which the land is situated, and the treasurer shall take an account thereof; and each of said officers, for making such sale, shall receive a fee of one dollar. to be paid by the purchaser. (§6203.)

[Acts 1875, p. 134. Approved March 9, 1875.]

453. Terms of Sale—Timber. 55. One-fourth of the purchase-money shall be paid in hand and the interest for the residue for one year in advance, and the residue in ten years from such sale, with like interest annually in advance; and deferred payments shall be regarded as a part of the congressional township school fund, and reported as such by the auditor to the superintendent of public instruction: *Provided*, That when one-fourth part or more of the value of the lands so sold, at the time of such sale, shall consist of the timber growing thereon, the terms of sale in such case may be as follows, viz.: At least one-half of the purchase-money cash in hand, and interest for the residue for one year in advance, and the residue in annual payments in not exceeding ten years from such sale, with like interest annually in advance; and in such case the terms of sale shall be set forth in the notice provided for in the preceding section: *And provided further*, That whenever the purchaser of any such land shall be proceeding to cut or remove, or threaten to cut or remove, from such lands, so sold, timber growing or being thereon, to such an extent that the land, after the cutting or removal of such timber, shall not be equal in value to the amount of purchase money, with

interest then remaining unpaid, it shall be the duty of the trustee of the civil township in which such land is situated (and he is hereby authorized and empowered) to commence and maintain an action, in the name of such township, in the circuit court of the county, to restrain and enjoin the further cutting or removal of such timber. (§6204.)

1. COUNTY LIABLE FOR INTEREST. The county is chargeable with interest on the entire amount of the price of the land, and the default of a purchaser of the land in paying deferred instalments, and its consequent forfeiture of the land to the school fund, does not relieve the county of liability for interest on the full amount.—Board of Commissioners v. State, 120 Ind. 442.

2. INJUNCTION. It is the duty of the prosecuting attorney to bring the suit for an injunction, at the request of the trustee.—Baldwin, Att.-Gen.

[Acts 1865, p. 3. Approved March 6, 1865.]

454. Forfeiture—Resale. 56. On failure to pay such annual interest when it becomes due, the contract shall become forfeited and the land shall immediately revert to the township; and the auditor and treasurer shall proceed, forthwith, again to sell the same, in like manner and on the terms above specified. If, on such second sale, such land shall produce more than sufficient to pay the sum owing therefor, with interest and costs, and five per cent damages, the residue shall, when collected, be paid over to the purchaser or his legal representative. (§6205.)

455. Forfeiture—How Prevented. 57. At any time before the sale, payment of the interest due and all costs, together with two per centum damages on the principal sum and interest due and owing for said land, shall prevent such sale and revive the original contract. (§6206.)

456. Forfeiture—Liability for Waste. 58. In case of such forfeiture, the original purchaser may be sued for waste or unnecessary injury done to such land. (§6207.)

457. Suit for Waste. 59. Such suit shall be prosecuted by the auditor, in the name of the state, for the use of the proper congressional township. (§6208.)

458. Private Sale. 60. When any land offered for sale at public auction shall remain unsold, the county auditor may dispose of the same at private sale for the best price that can be had therefor, not being less than the minimum price affixed thereto. (§6211.)

1. WHEN SALE AUTHORIZED. This section authorizes a private sale only where the land has been offered for sale at public auction and remains unsold.—McPheters v. Wright, 110 Ind. 519.

459. Reappraisement. 61. After the expiration of the term of four years after any appraisement and offer for sale of any lands in this state belonging to any township for school purposes, and such lands remain unsold, it shall be lawful to reappraise, sell and dispose of said lands in the same manner that they would have been had such lands not been previously offered for sale: *Provided, however*, That such appraised value shall not be below the minimum price now fixed by law. (§6212.)

[Acts 1917, p. 340.]

460. Sale of Real Estate, Appraisement—Notice—Terms. 1. That whenever it shall appear that real estate which has been purchased for school experimental purposes is undesirable or unnecessary for the furtherance of such purposes, and unnecessary to the school corporation owning same, such school corporation may through its duly elected or appointed and legally empowered official or officials cause such real estate to be appraised under oath by three (3) disinterested freeholders of the township in which same is situated and may sell same, or any part thereof at public sale for not less than the appraised value, after three (3) weekly advertisements of the time and place of such sale, with a full description of such property published in a newspaper of general circulation in the county in which such real estate is situated, and such real estate shall be sold to the highest bidder upon terms of one-third (1-3) cash, and balance in one (1) and two (2) years in equal instalments with six per cent (6%) interest upon the deferred payments. The proceeds of such sale shall be paid into the school fund of such school corporation.

[Acts 1883, p. 75. Approved March 3, 1883.]

461. Advertisement of Funds. 1. Whenever, in any county of the State of Indiana, the school fund, or any part of the school fund, apportioned to such county to be loaned out, remains unloaned, it shall be the duty of the auditor of said county to advertise, in the months of January, April, July and October, for three consecutive weeks, in a weekly newspaper published in said county, that such amount of school fund remains unloaned, and that applicants for loans can secure the same by applying at his office and fulfilling the requirements of the law under which he is authorized to loan out the school fund. (§6253.)

[Acts 1883, p. 79. Approved March 3, 1883.]

462. Reappraisement of Forfeited Lands. 1. All lands which have become forfeited and have reverted, or may hereafter be forfeited and revert to the various townships in the several counties of this state, for failure to pay the interest or principal of the amount due thereon to the school fund, and which have remained or hereafter remain unsold for the period of three years, by reason of the amount due thereon being in excess of the values of said lands, may be reappraised and sold for a sum not less than said reappraised value thereof; and such reappraisement and sale to be made in the same manner and upon the same terms and conditions as is now prescribed by law for the appraisement and sale of such lands. (§6209.)

1. To What Land Appliable. This section relates to the sale of congressional township lands, and it has no reference to the right of the county to be reimbursed for interest paid on loans out of the proceeds of a sale under a mortgage after the principal has been paid to the state.—Board v. State, 122 Ind. 333.

463. Appropriation by Commissioners. 2. Upon the sale of such lands as provided for in the preceding section of this act, the board of county commissioners of the several counties in which said lands are situated may make an appropriation, from the general county funds, a sum equal to the difference between the amount for which said lands shall have been for-

feited and the amount for which such lands shall have last sold; said sum appropriated to be placed to the credit of the proper fund and loaned as other school funds are loaned. (§6210.)

464. Certificate of Purchase. 62. A certified statement of such sale shall be made and signed by the auditor, and, being first recorded by such auditor in the records of the board of county commissioners, shall be delivered to the purchaser when he makes his first payment, and shall entitle him to a deed when the terms of such purchase shall have been fully complied with. (§6213.)

465. Rights of Purchaser. 63. Every purchaser, until forfeiture, shall be entitled to all the rights of possession before existing in such trustee or township, and to all rights and remedies for rents becoming due or breaches of covenant occurring after his purchase under any lease existing at the time of his purchase, and for all waste committed thereafter. (§6214.)

466. Failure to Make First Payment—Penalty. 64. A purchaser at such sale failing to make the first payment as above required shall pay ten per centum on the sum bid, to be recovered by action before any court having jurisdiction, to be prosecuted by the county auditor in the name of the state for the use of the proper township; and the auditor and treasurer shall be competent witnesses. (§6215.)

1. Tender of Deed. In a suit to recover the final instalment of purchase money, a deed should be first made and tendered.—Johnson v. State, 74 Ind. 588.

467. Assignment. 65. No assignment of a certificate shall be valid unless acknowledged before some officer authorized to take acknowledgments of deeds or before the county auditor, who shall, in all such cases, record the same. Assignments of certificates heretofore made before any officer authorized to take acknowledgments of deeds, when recorded, shall be as valid as if acknowledged before the county auditor. (§6216.)

[Acts 1863, p. 11. Approved February 27, 1863.]

468. Defective Assignments—Proceedings. 1. Whenever the certificate of the school commissioner or auditor of any county of this state, issued for land sold, has been assigned by any person without a proper acknowledgment before the county auditor or other proper officer, or assigned by delivery, and such assignor is deceased, any assignee of such certificate, claimng title to the land described therein, may file his complaint in the proper circuit court, making the county auditor and the heirs of such deceased assignor parties thereto. If it shall be proved to the satisfaction of the court that the plaintiff, or any party to the cause is the equitable owner of the land, and the purchase money has been fully paid to the school fund, the court shall direct the auditor to execute a proper conveyance to the plaintiff or other parties entitled thereto, although the certificate has not been properly assigned or the assignment thereof properly acknowledged by the decedent. All other persons claiming any interest in the land may, on their application, be made parties and heard in the case. The auditor shall execute a conveyance, according to the directions of the court; and such conveyance shall vest in the grantee the title of said land as fully and to all intents and

purposes as if the certificate had been legally assigned and the assignment properly acknowledged. (§6217.)

[Acts 1865, p. 3. Approved March 6, 1865.]

469. **Loan of Purchase Money.** 66. When the residue of the purchase money becomes due, the purchaser may retain the same as a loan for a term not exceeding three years, on payment, annually made in advance, of the interest thereon, at the rate then established by law for the loans of such funds; but he shall receive no deed until full payment is made. (§6218.)

470. **Payments.** 67. Purchasers may, at any time before due, pay a part or the whole of such purchase money. (§6219.)

471. **Lost Certificate.** 68. When any such certificate shall be lost before a deed be made, on proof thereof by affidavit of the person interested, or other competent testimony, to be filed with the county auditor, and after three month's notice of intention to apply for a new certificate, given in some newspaper printed nearest to where the land lies, such auditor may issue the same to the person entitled thereto. (§6220.)

LOST CERTIFICATE. If a certificate be lost, a new one may be issued to the purchaser, even to a grantee of the purchaser.—Hinkle v. Margerum, 50 Ind. 240, 241.

472. **Purchase Money, Where Paid.** 69. The purchase money and interest, and all costs and damages above provided for, shall be paid to the treasurer of the proper county, and his receipt therefor filed, by the person paying, with the county auditor, who shall issue his quietus therefor. (§6221.)

473. **Duty of Auditor.** 70. When such payment is in completion of any contract of sale, the amount of such receipt shall be indorsed by the county auditor on the certificate of purchase. (§6222.)

474. **Deed.** 71. On full payment for such land a deed shall be issued by the county auditor, and entered upon the record-book of the board of county commissioners. (§6223.)

ENTRY ON RECORD. The deed, before delivery, must be entered on the record-books of the county commissioners.—Arnold v. Gaff, 58 Ind. 543.

[Acts 1877, p. 139. Approved February 8, 1877.]

475. **Sale—Legalization.** 1. In all cases where school lands have been sold and certificate has either been issued to the purchaser or entered of record in the proper office, or otherwise, so the purchaser entered into possession and paid part of the whole of the purchase money, or could have entered into occupancy, such sale shall be deemed and held a sale under the law, as much as it would be had a deed been made and delivered and the fee had been passed to the purchaser; and such lands shall be deemed and held as having been sold, so as to make them liable to taxation, within the meaning of the law, as fully and completely as they would have been had a deed been delivered. All appraisements of lands so sold, and all assessments of the same for taxes, and all levies and collections of taxes thereon, heretofore made are hereby legalized and declared to lawful and valid, and shall in nowise be subject to question by reason of such sale not having been consummated by execution and delivery of deed. (§6224.)

[Acts 1865, p. 3. Approved March 6, 1865.]

476. Title—When Complete. 72. Such deed shall be executed and acknowledged, at the cost of the grantee, by the county auditor, as in other cases; and, thus executed and delivered, shall vest in the grantee, his heirs and assigns, forever, a complete title to the land. (§6225.)

477. Sale Had Without Vote. 73. The voters of any congressional township may, in the absence of a vote to sell land, and in lieu thereof, petition the trustee of the township for such sale. Such petition, if signed by a majority of all the voters of the township, shall be filed with the county auditor, and the same proceeding shall be had as provided in section 54 [§500], upon a vote of the inhabitants of the township for such ale. Such petition and certificate shall be recorded in the record-book of the trustee of the township and of the county auditor of the investment of funds held for the benefit of common schools and congressional townships. (§6226.)

478. Compensation on Failure of Title. 150. When any officer authorized to sell school lands, shall have sold any lands without a title thereto, such officer, or his successor in office may convey such other lands of equal value as may be agreed upon by such officer and the purchaser, his heirs or assigns; or, failing to make such agreement, the purchase money, with interest, shall be repaid to the purchaser, his heirs, executors, administrators or assigns; but no such purchase money shall be thus repaid until the proper prosecuting or district attorney shall have investigated the facts of the case and certified to the correctness of the claim. (§6227.)

1. Sales Legalized. Sales in unauthorized subdivisions prior to March 3, 1855, were legalized.—Acts 1855, p. 144.

[Acts 1855, p. 49. Approved March 1, 1855.]

479. Lands and Surplus Revenue Fund, How Sold. 1. Where the surplus revenue fund belonging to common schools, in any county in this state, or any part of such fund, has by any means become invested or changed into real estate, the board of commissioners of such county are hereby authorized to dispose of the same, by sale, in such manner as may seem best for the interest of the common school fund, and to reinvest the proceeds of such sale in the manner directed by law for the investment of other moneys belonging to the common school fund. (§6228.)

[Acts 1893, p. 41. Approved February 17, 1893.]

480. Interest—Judgment. 1. The principal of all moneys, whether belonging to the common school fund or to the congressional township school fund, received into the county treasury shall be loaned at 6 per cent per annum, payable annually in advance, and the interest paid out as prescribed by the school law of this state, and not otherwise; and any judgment upon any note or mortgage for any part of said fund shall bear 6 per cent interest from the date thereof till the same is paid; and no greater rate of interest than is herein specified shall be exacted or received upon any loan heretofore made at the rate of 8 per cent per annum shall, from and after the taking effect of this act, draw 6 per cent interest per annum, the same as if negotiated under the provisions of this act. (§6229.)

[Acts 1907, p. 76. Approved February 25, 1907.]

481. Advertisement of Funds. 1. It shall be the duty of the county auditor to publish once each quarter, in a weekly paper of general circulation published in his county, the amount of the common school fund on hand subject to loan: *Provided*, No such newspaper advertisement shall cost to exceed one dollar and fifty cents. In all cases where there is one thousand dollars in such fund to be loaned, he shall also keep the same continually posted on a bulletin board in a conspicuous place in his office: *Provided*, That in counties containing a city having a population of ten thousand or more, according to the last preceding United States census, said notice may be published in a daily newspaper of general circulation, but such notice shall not be published more than once in a quarter in such newspaper. (§6254.)

482. County Auditor—Penalty. 2. Should the auditor fail to comply with the requirements of this act he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten (10) dollars nor more than twenty-five (25) dollars for each offense. (§6255.)

[Acts 1865, p. 3. Approved March 6, 1865.]

483. Auditor's Duty. 75. Such loans shall be made by the county auditor, who shall inform himself of the value of the real estate offered in the mortgage and be satisfied of the validity of the title thereof and all persons applying for a loan shall produce to said auditor title papers, showing to his satisfaction, a good and sufficient title in fee-simple, without incumbrance, [and] not derived from sale for taxes. (§6240.)

484. Appraisement. 76. The auditor shall require three disinterested freeholders of the neighborhood to appraise any land offered in mortgage. (§6241.)

485. Duty of Appraisers. 77. Such appraisers, being first officially sworn, shall examine and appraise such land, and sign and give to the applicant a certificate, setting forth the fair cash value of the land at the time, without taking into consideration perishable improvements. (§6242.)

[Acts 1885, p. 195. Approved April 11, 1885.]

486. Loans Outside of County. 78. In making such loans preference shall be given to the inhabitants of the county: *Provided*, That whenever any of such funds shall have remained in the treasury of any county to which the same may belong for a period of three months, without being loaned to any inhabitant of said county, then the auditor of said county may loan the same to any freeholder of any other county in Indiana, upon his complying with the law regulating such loans. When the land received as security for any such loan is situated in any county of the state other than the one in which the loan is made, and there is default in the payment of interest or principal, the auditor of the county making the loan shall at once transmit to the auditor of the county where the land is situated a certified copy of the note and mortgage given for the loan, with a statement of such default in payment, and the auditor of such latter county shall, upon such certified copy, at once proceed to enforce the collection of such loan either by suit or sale of the land, as is now provided by law; and, after receiving such certified copy by said

auditor, all steps taken, and all proceedings had, with reference to said loan or the land which was mortgaged shall be the same as if the loan had originally been made out of the funds belonging to said county; and all money collected or realized upon such loan shall at once, as soon as collected or realized, be paid over to the auditor of the county having made the loan. (§6243.)

487. Limit of Loan. 79. The amount loaned to any person shall not exceed two thousand dollars. (§6244, as amended Acts 1885, p. 196.) See §491.

[Acts 1865, p. 3. Approved March 6, 1865.]

488. Oath of Applicant. 81. Such applicant shall make oath that there is no incumbrance or better claim, that he knows of, and that the abstract of the title presented by him is, as he believes, a true one. (§6246.)

489. Time of Loan. 82. No loan shall be made for a longer term than five years. (§6247.)

[Acts 1901, p. 152. Approved March 7, 1901.]

490. Loan of School and University Funds. 1. The principal of all moneys, whether belonging to the common school fund, the congressional township school fund, or the permanent endowment fund, Indiana University, received into the county treasury, shall be loaned at 6 per cent per annum payable annually at the end of each year from the date of such loan. (§6230.)

491. Limit of Loan. 2. The amount loaned to any person or company rom the common school fund, the congressional township school fund, or the permanent endowment fund, Indiana University, shall not exceed four thousand dollars. (§6231.) See §487.

492. Percentage of Value of Land. 3. The sum loaned shall not exceed one-half the appraised value of the premises proposed to be mortgaged. In all cases where perishable improvements upon real estate are accepted as a part of the security for any such loan, the real estate and the perishable improvements thereon shall be appraised separately, and there shall be procured by the borrower a policy, or policies, of fire and tornado insurance issued by a company, or companies, duly authorized by the auditor of state to do business in this state, and such policy or policies shall contain the union mortgage clause in favor of the county wherein such loan is made, and such borrower shall deliver such policy, or policies, of insurance to the auditor of such county and shall keep such improvements insured in the manner aforesaid during the time that such loan is in force. The mortgage securing such loan shall contain the provision that such insurance shall be procured and kept in force as above provided. Upon the failure of said borrower to do so, the auditor shall procure such in urance, and the premium or premiums thereof shall become a part of the debt secured by said mortgage, bearing same rate of interest as the mortgage debt, and the further provision that such mortgage may, upon such default by such borrower, be foreclosed. Such insurance shall in all cases be for a sum equivalent to sixty-six and two-thirds per cent of the appraised value of such portion of said perishable improvements as is accepted as security for any such loan: *Provided*, That when

such premises are situated in a county other than that to which such fund may belong, the sum loaned thereon shall not exceed forty per cent of the appraised value of such premises. (As amended 1903, p. 119, §6232.)

[Acts 1913, p. 690.]

93. County Auditors—School Funds—Loan on Mineral Land. 1. That where coal or other minerals underlie the surface of real estate, that the auditor of the county where said real estate is situated is hereby authorized to loan the principal of all moneys belonging to the school fund to an amount not to exceed fifty per cent of the surface value of said real estate, secured by a mortgage, and said loan to be made in all other respects as now provided by law. (§6232a.)

[Acts 1901, p. 152. Approved March 7, 1901.]

94. Length of Time. 4. No loan shall be made for a longer term than five years, and any borrower of such funds shall have the right to pay not less than ten per cent of any sum so loaned to him at the end of any year during the maturing of said loan, and shall not be required to pay any interest thereafter on such sum paid. (§6233.)

95. County May Borrow. 5. In any county in this state where the common school fund, congressional township school fund, or the permanent endowment fund, Indiana University, or either of said funds, subject to loan by the county auditor, shall accumulate to the amount of one thousand dollars or more, and shall remain unloaned for a period of thirty days or more, and such county shall not have sufficient money in its treasury to pay the debts and obligations then owing by such county, it shall be lawful for such county to borrow and use such unloaned school funds, or any portion thereof, for a period not exceeding five years. (§6234.)

96. Note of County—County Council. 6. Whenever any county council shall determine to borrow and use any such funds under the provisions of this act, such council shall cause to be entered of record an order specifying the amount of such funds to be borrowed and used, and the time for which such loan shall be made, and shall execute to the State of Indiana, for the use of the said funds, a written obligation signed by the president of said council, specifying the facts under which the same is executed, the sum of money borrowed and the time when such money shall be repaid to such county. Said obligation shall be deposited with the auditor of the county, and shall be preserved by him as mortgages for loans of such funds are kept and preserved; and such auditor shall make the same entries of record in his office respecting such loans as he is required by law to make when loans of such funds are made to private individuals. (§6235.)

97. Auditor's Warrant. 7. On the deposit of such obligation with the county auditor, he shall draw his warrant upon the county treasurer, in favor of such county, for the amount of money specified in such order and obligation; and on presentation of such warrant to such tresaurer he shall transfer from the principal sum of the common school funds, the congressional township school funds or the permanent endowment fund, Indiana University, in his hands, subject to loan, to the credit of the county revenue of such

county, the amount of such warrants, and such sum shall become a part of the general revenue funds of the county. No county auditor shall act as agent for any person, firm or corporation, either directly or indirectly, during his term of office, in the negotiation of any loan of money, other than in loaning the funds mentioned in this act. (§6236.)

498. Rate of Interest. 8. Any county borrowing and using any funds under the provisions of this act, shall be required to pay interest for the use of such funds at the rate of six per cent per annum. (§6237.)

499. Payment of Loan. 9. On the payment by any county of a loan made under this act, the same proceedings shall be had by the county auditor and treasurer as is required by law to be taken and had, so far as entries upon their records are concerned, as when a loan of school funds or State University funds is paid by a private individual, and when such loan is fully paid, and a receipt therefor given by the county treasurer to the county auditor, such auditor shall enter of record a statement showing such payment and shall cancel the obligation given by the county council and file the same for future reference in the archives of his office. (§6238.)

500. Transfer from One County to Another. 10. Whenever more than five thousand (5,000) dollars of either of said funds remains unloaned in any county for a period of six (6) months, it shall be the duty of the county auditor to notify the auditor of state of such fact, with the name of the fund to which such unloaned sum belongs, and the amount so unloaned. The auditor of any county having applications for loans beyond the amount of the funds now apportioned to said county shall notify the auditor of state of such fact, and the auditor of state may transfer the unloaned funds from any county to any other county, crediting the county from which the same is transferred with the amount so transferred, and charging the county to which the same is transferred with such amount, and thereafter the county to which such sum is transferred shall account for the interest thereon. (§6239.)

1. NOTE. Section 11 repeals all laws in conflict with the ten preceding sections. [Acts 1881, p. 99. Approved April 14, 1881.]

501. Certificate as to Liens. 1. An applicant for a loan of a part of the common school fund or of the congressional township school fund shall file with the auditor of the county the certificate of the clerk and recorder of the county that there is no incumbrance on the land offered as a security for the loan in either of said offices: *Provided*, That where the records, books and papers of the clerk's office have been destroyed by fire, the clerk's certificate shall only state the fact and date of such destruction, and that there is no incumbrance on said land appearing from any of the records, books and papers then on file in his office, and that there is no incumbrance on said land in his office of which he has any knowledge. The applicant shall also, in such case, execute to the State of Indiana, for the benefit of the common school fund, a bond with one or more freehold sureties to the approval of the auditor, conditioned for the payment of so much of the loan as may be lost by reason of any incumbrance or lien upon the land which was evidenced by the records, books or papers in the clerk's office which have been destroyed. (§6245.)

502. Limit of Amount. 83. The sum loaned shall not exceed one-half of the appraised value of the premises proposed to be mortgaged, clear of all perishable improvements: *Provided*, That where such premises are situated in a county other than that in which such fund may belong, the sum loaned thereon shall not exceed one-fourth of the appraised value of such premises, exclusive of perishable improvements, such value to be determined by the existing laws of the State of Indiana. It is hereby made the duty of the board of commissioners of each county of this state, at their first regular session after the taking effect of this act, to appoint in each commissioner's district of the county, three reputable freeholders, any two of whom, without the concurrence of the third, may act as school fund appraisers, whose duty it shall be, upon oath, to make all the appraisements of lands in their respective districts required in this act or in the act of which this is amendatory. Said appraisers, or any of them, may be removed and new ones appointed by said board at any regular or special session, and in case any of such appraisers is at any time disqualified, by reason of kinship or interest, from acting, the appraisement shall be made by the other appraisers, who, in case of a disagreement, shall select a third appraiser. Said apprasiers shall receive the same compensation for making each appraisement, and be paid in the same manner as such appraisers are now paid. (As amended, Acts 1885, p. 196.)

[Acts 1865, p. 3. Approved March 6, 1865.]

503. Acknowledgments and Oaths. 84. The auditor shall have the power to administer all oaths and take all acknowledgments required by this act. (§6249.)

504. Record of Mortgages—Priority. 85. Mortgages taken for such loans shall be considered of record from the date thereof, and shall have priority of all mortgages or conveyances not previously recorded, and all other liens not previously incurred, in the county where the land lies. (§6250.)

505. Auditor's Duty. 86. The auditor shall cause such mortgages to be recorded immediately, retaining the cost of recording out of the money borrowed. (§6251.)

506. Fees. 108. The following fees only shall be charged in cases of mortgage for loans: To each appraiser, fifty cents; for recording mortgage, one dollar; for drawing mortgage, one dollar; for making borrower's affidavit, ten cents; for clerk's certificate, fifty cents; for recorder's certificate and examining title, each one dollar; which shall be paid by the borrower. (§6256.)

507. Interest Unpaid—Auditor's Duty. 87. On failure to pay any instalment of interest when the same becomes due, the principal sum shall forthwith become due and payable, and the auditor may proceed to collect the same by suit on the note, or by sale of the mortgaged premises. He may also, by suit, recover the possession of the mortgaged premises before sale thereof; and he shall, on the fourth Monday in March, annually, offer for sale all mortgaged land on which payments of interest are due on the first day of January and unpaid on the day of sale. (§6260.)

[Acts 1885, p. 195. Approved April 11, 1885.]

508. Collection on Default. 4. It shall be the duty of the auditor of each county, in case default shall be or has been made in the payment of principal or interest of any school fund loan, to at once proceed to enforce the collection of such principal or interest, as the case may be; and any auditor who shall fail or refuse to comply with the requirements of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding one thousand dollars. (§6261.)

[Acts 1865, p. 3. Approved March 6, 1865.]

509. Fund to be Specified. 88. The mortgage may be, in substance, as follows: And the auditor shall specify therein whether the same belongs to the common school fund or to the congressional township fund, and, if the latter, the particular township or townships whose funds are thus loaned. (§6262.)

1. Omission to Specify. The omission to state the particular fund does not render the mortgage void.—Benefiel v. Aughe, 93 Ind. 401, 407; Ellis v. State, 2 Ind. 262.

510. Form of Mortgage. 89. I, A. B., of the county of ——, in the State of Indiana, do mortgage to the State of Indiana, for the use of [here describe the fund out of which the loan was made] all [here describe the land], for the payment of —— dollars, with interest at the rate of eight per cent per annum, payable annually in advance, according to the conditions of the note hereto annexed. (§6263.)

1. Construction. For cases on school mortgages, see Burk v. Axt, 85 Ind. 512; Nolan v. State, 115 Ind. 529.

511. Form of Note. 90. The note accompanying the same may be in substance as follows, towit: I, A. B., promise to pay to the State of Indiana, for the use of [here recite the particular fund], on or before ——, the sum of —— dollars, with interest thereon at the rate of eight per cent per annum in advance, commencing on the —— day of ——, 18—; and do agree that, in case of failure to pay any instalment of interest when the same shall become due, the principal sum shall become due and payable, together with all arrears of interest; and on failure to pay such principal or interest when due, two per cent damages shall be collected, with costs, and the premises mortgaged may be sold by the county auditor for the payment of such principal sum, interest, damages and costs. (§6264.)

1. Note not Signed. A mortgage executed to secure a note attached to it is binding, though the note is not signed; and there is no error in allowing the note to be read in evidence, it being a part of the mortgage.—McFadden v. State, 82 Ind. 558.

2. Illegal Fees. As to attorney fees charged for collecting a note, see Coleman v. Goben, 16 App. 346.

[Acts 1913, p. 943.]

512. Schools—Renewal of School Fund Mortgages—Duties of Auditor. 1. That all mortgagors of the common school, congressional school and permanent endowment funds, held in trust by their respective counties wherein such mortgage exists, shall, at the expiration of five (5) years from the date of the original loan, be required to give notice to the

said auditor of said county that they desire to continue such loan. That upon the receipt of such notice, the auditor shall notify the appraisers of the district wherein such mortgaged premises are located, who shall proceed to view and appraise such mortgaged premises, and shall upon oath fix the actual cash value thereon, without regard to the amount of the present existing loan. If the said mortgaged premises are reappraised at an amount equal to double the amount of the loan, it shall be so recorded by said auditor, which said procedure shall be sufficient for a further continuation of such mortgaged school loan for the period of five (5) years from the expiration of the said original loan: *Provided, however*, That if the second appraisement, made for the purpose of said continuation, be not sufficient, and is less than double the amount of the original loan, such mortgagor shall pay into the treasury a sufficient sum to reduce said loan to one-half of said appraisement. The cost for said renewal shall be fifty (50) cents each to the appraisers, and fifty (50) cents to said auditor for recording said continuation. (§6261a.)

513. Warrant to Borrower. 91. On making a loan of any fund the auditor shall draw his warrant in favor of the borrower, upon the county treasurer, who shall charge it to the proper fund. (§6265.)

514. Payments—Quietus. 92. All loans refunded and all interest shall be paid to the county treasurer, and his receipt shall be filed with the county auditor, who shall give the payer a quietus therefor, and make proper entries. (§6266.)

515. Indorsements and Satisfaction. 93. Whenever the amount due on any mortgage shall be paid, and the treasurer's receipt therefor filed, the auditor shall indorse on the note and mortgage that the same has been duly satisfied, and surrender the same to the person entitled thereto; and, on production of the same thus indorsed, the recorder shall enter satisfaction upon the record. (§6267.)

[Acts 1915, p. 76. Approved March 2, 1915.]

516. Preamble. *Whereas*, Divers laws appear among the acts of the general assemblies of this state relative to the loaning of congressional township school funds, originating under the act entitled, "An act to authorize the sale of the school lands and for other purposes," approved January 23, 1829, which provided for the loaning of the said funds by the school commissioner to be elected in each county, and later such congressional township school funds, by local or special acts, were authorized to be made by the congressional township treasurer, congressional township trustees and the county treasurer acting as school commissioner, until the abolishment of such office provided for in an act entitled, "An act to increase and extend the benefits of common schools," approved January 17, 1849; and

Whereas, Such loans were made by mortgage upon lands or lots situate within the county for which such school commissioner was elected, and provided for a forfeiture of such mortgaged lands or lots in the case that the interest was not paid in advance by proceedings in the circuit court of such county; all of such proceedings appear of record on the dockets of the clerk of such circuit court; and

Whereas, Many congressional township fund mortgages appear unsatisfied during the period between January 23, 1829, and January 17, 1849, affecting the titles of the present innocent holders, for which they should have relief, for remedy whereof:

517. Schools—Mortgages on Lands—Clerk of Court—Satisfaction of Judgments. 1. That the certificate of the clerk of the circuit court having jurisdiction over the lands or lots where such unsatisfied mortgage appears, that he has examined the judgment dockets for the period covered from the date of such loan to November 1, 1851, the date of adoption of the second constitution of the State of Indiana and that there being no forfeiture of the land or lot so mortgaged, shall, when recorded on the page of such recorded mortgage be deemed a full satisfaction of same.

518. Suit for Deficiency. 94. In all cases where the mortgaged premises shall fail to sell for a sum sufficient to satisfy the principal and interest of the loan made, and the damages accrued by reason of such failure, and costs, the county auditor shall bring suit on the notes executed by the mortgagor; and whenever judgment shall be rendered thereon, no appraisement of property shall be allowed on execution issued on such judgment. (§6269.)

519. Notice of Sales. 95. Before sale of mortgaged premises, the auditor shall advertise the same in some newspaper printed in the county where the land lies, if any there be (otherwise, in a paper in the state nearest thereto), for three weeks successively, and, also, by notice set up at the court house door and at three public places in the township where the land lies. (§6270.)

520. Manner of Sale—Surplus. 96. At such sale (which shall be held at the court house door), the auditor shall sell so much of the mortgaged premises, to the highest bidder, for cash, as will pay the amount due for principal, interest, damages and costs. When less than the whole tract mortgaged, shall be sold, the quantity sold shall be taken in a square form, as nearly as possible, off the northwesterly corner of said tract; and when less than the whole of any in-lot or out-lot of any town or city shall be sold, the part sold shall be laid out and taken off, so that it shall extend from the main or principal street or alley on which the said lot fronts, to the rear thereof, to divide the same by a line as nearly parallel with the boundaries of said lot as practicable, and if less than the whole is sold, the auditor, in his notice of sale, shall indicate off of which side or end of said lot the part to be sold shall be taken; and if more than one tract of land in included in the mortgaged premises, the auditor shall elect which tract or tracts shall be sold, saving to the mortgagor, if practicable, the tract on which his house is located. If a tract of land so mortgaged, and liable to be sold to satisfy the mortgage, can not be divided without materially diminishing the value of such tract; or if any in-lot or out-lot be indivisible by reason of extensive buildings or other improvements thereon, the auditor may sell the whole thereof, and, after paying the amount due for principal, interest, damages, and costs, out of the purchase money, shall pay the balance, if any, to the mortgagor; and if the auditor sell any part of a tract of land, out-lot or in-lot for more than the amount of principal, interest, damages and costs, the excess, if any, shall be paid to the mortgagor. (§6271.)

521. Auditor's Bid. 97. In case of no bid for the amount due, the auditor shall bid in the same on account of the fund, and, as soon thereafter as may be, shall sell the same—having first caused it to be appraised by three disinterested freeholders of the neighborhood—upon the following terms, viz.: One-third cash in hand, and the balance in four equal instalments, due in one, two, three and four years, respectively, from the day of sale, bearing interest at six per cent per annum, payable annually in advance; but no such sale shall be for a less sum than the appraised value thereof. (§6272, as amended, Acts 1889, p. 314.)

522. Sale of Lands Bid in. 98. Lands heretofore bought in on account of the fund, which have been appraised, shall be sold in like manner; and if, upon sale of any such land, a sum is realized which is more than sufficient to pay the principal, interest, damages and costs, the overplus shall be paid to the original mortgagor, his heirs or assigns, when collected. (§6273.)

523. Deed by Auditor. 99. Upon full payment being made for such lands, the deed therefor shall be executed by the county auditor, and shall be entered in the record of the board of county commissioners before delivery. (§6282.)

524. Statement of Sales. 100. At the public sale at the court house door provided for in this act, the county treasurer shall also attend, and make a statement of such sales, which shall be signed by the auditor and treasurer, and after being recorded in the auditor's office shall be filed in the treasurer's office; and such record, or a copy thereof, authenticated by the auditor's or treasurer's certificate, shall be received as evidence of the matters contained therein. (§6283.)

1. STATEMENT SIGNED. This statement must be signed by both auditor and treasurer, or the sale will be void.—Arnold v. Gaff, 58 Ind. 543; Benefiel v. Aughe, 93 Ind. 401.

525. Title in State Without Deed. 101. When any land is laid [bid] off by the auditor at such sale, no deed need be made therefor to the state; but the statement of such sale, and the record thereof, shall vest the title in the state, for the use of the proper fund. (§6284.)

[Acts 1899, p. 55. Approved February 17, 1899.]

526. Conveyance to County. 1. In cases where lands have been mortgaged to the common school fund or congressional school fund, and there is a default in the payment of the interest, or the interest and principal, and the auditor is unable to sell such lands for a sum sufficient to pay such loan, as provided by law, and the county shall pay the same to said school fund, the board of commissioners may in regular or special session, if it is for the best interest of the county in the reimbursement of its general fund, accept, in the name of the county, a conveyance of said land from the owners and take possession thereof. (§6274.)

527. Suit to Foreclose. 2. That in cases where lands mortgaged to the common school fund or congressional school fund have been offered for sale and bought by the auditor on account of the fund, and has been reoffered for sale and no bid received sufficient to pay the principal, interest, damages

and costs accrued on said loan, as otherwise provided by law, and the county shall pay the same to said school fund, the lien which the state has by reason of said mortgage, or said prior bid by the auditor on account of the fund, shall inure to the benefit of said county, and in such case the auditor may proceed to collect the amount due the county, by suit foreclosing such lien and recovering a personal judgment against the makers of said mortgage, or by either form of action, for the amount due the county, and he may also in same suit recover the possession of the mortgaged premises and quiet title thereto, and all liens and rights against the land may be adjusted as in other equitable actions; and the same relief may also be given in suits to foreclose such mortgages. All such sales shall be ordered without relief from valuation or appraisement laws, and shall be absolute and the purchaser immediately entitled to a conveyance. (§6275.)

528. Purchase by County. 3. The board of commissioners, when the county in either case has paid the principal and interest due such school fund for the purpose of reimbursing the county, if, in the opinion of the board, it shall be to the best interest of the county, may cause the land, which has been ordered sold in such decree of the court, to be purchased at such judicial sale in the name of the county for any price, or any maximum price it may fix, not in any case exceeding the full amount of the principal, interest, cost and accrued costs due on such decree at the date of such sale. The officer making the sale shall execute a deed to the county for such real estate. (§6276.)

529. Lease of Land Purchased. 4. The board of commissioners may lease the real estate acquired under this act for a period not exceeding one year at a time upon such terms as the board may fix until the same shall be sold, that said lease shall be in writing, approved by said board and spread upon its record. The auditor shall be authorized to collect such rents, and if in kind sell the same in the markets and pay the proceeds to the county treasurer as a part of the general fund. (§6277.)

530. Sale of Land.—Appraisement. 5. The board of commissioners, at any regular or special session, shall order such real estate to be sold by the auditor at his office at public or private sale, such order shall fix the terms of sale, which may be in cash, or by instalments with interest and such security as the board may require, such credits may extend through a period of not longer than five years. Before making such sale the auditor shall cause the land to be appraised by three freeholders of the county acquainted with the land and who shall be sworn to honestly and impartially appraise the land at its fair cash value, which oath shall be indorsed on the appraisement. The auditor shall advertise such sale, giving a description of the real estate to be sold and the terms of sale as ordered by the board, for at least thirty days in some newspaper of the county and by posting at least five notices in the township where the land is situated and one at the court house of the county. Such real estate shall not be sold for less than the appraised value. The board may, if no sale is made within reasonable time, at any time thereafter, order a reappraisement or change the terms of such sale by giving further notice in the same manner as hereinbefore provided, Proof of notice and the

appraisement must be filed with the auditor. When such sale shall have been made the auditor shall report the same at the next regular session of the board. Objections may be filed within three days from the first day of the term at which such sale is reported by any taxpayer or person interested, and such objections shall be heard and determined by the board. A resale may be ordered, when all objections have been determined, or if there is no objection to such sale the board of commissioners shall approve the sale. If the sale is by instalments the purchaser shall be entitled to a certificate of such purchase and the possession of the land. Such certificate may be assigned and the deferred payments may be made with the interest accrued thereon before maturity; upon final payment of the purchase money the board of commissioners shall execute a deed to said purchaser or his assignee for such real estate. The money derived from such sale shall be paid to the county treasurer as a part of the general fund. (§6278.)

531. Deeds. 6. The auditor shall cause the deeds executed to the county under the provisions of this act to be recorded in the recorder's office of the county. (§6279.)

532. Sales Legalized. 7. Any sales or conveyances made to any county in this state before the taking effect of this act are hereby legalized, and the title to any such real estate is declared to be fully vested in such county by such conveyance. (§6280.)

533. Act Supplemental. 8. This act shall not amend, modify or repeal any law now in force concerning the management, loan and sale of real estate on account of any school fund, but it shall be an additional provision for the collection of such funds, and the reimbursement of the counties entrusted therewith. (§6281.)

[Acts 1901, p. 544. Approved March 11, 1901.]

534. Satisfaction of Mortgages. 1. Whereas, there are a large number of school fund mortgages, which appear unsatisfied of record in the recorder's office in the various counties of the State of Indiana, which, in fact, have been paid, the auditor of any county in the State of Indiana, where such mortgaged lands are situated, when requested by the mortgagor or owner of the lands so mortgaged, shall make an examination of the ledgers or other records of his office, and compare such records with the receipts of moneys for school fund mortgages, in the treasurer's office of such county, and if, upon such examination and comparison, and all facts known to him, or that come to his knowledge, he finds that such mortgage or mortgages appearing in the recorder's office of such county as unsatisfied of record, have, in fact been paid, such auditor of such county, where such mortgaged lands are situated, shall make entry of satisfaction upon the margin of the record in the recorder's office, showing the same to have been paid, for which services the mortgagor or owner of such lands shall pay to the auditor a fee of twenty-five cents, and also pay to the recorder his fee provided for releasing mortgages. (§6268.)

[Acts 1865, p. 3. Approved March 6, 1865.]

535. Annual Report. 103. County auditors and county treasurers shall annually report, in writing, to the boards of county commissioners of

the respective counties, at the June sessions of said boards relative to the school fund held in trust by said counties, distinguishing in said reports between the congressional township and common school funds; indicating the amounts thereof; the additions to them within the current year then ending; the sources from whence such additions are derived; the condition of them as to their safety, giving the amount thereof safely invested, unsafely invested and uninvested, and loss at the date of said reports; giving also the amount of interest collected upon said funds within the year then ending, and the amount then due and unpaid. (§6285.)

536. Duty of Boards. 104. The boards of county commissioners shall, annually, at their June sessions, in the presence of the auditors and treasurers, examine said reports, the accounts, and proceedings of said officers in relation to said funds, and the revenue derived from them. They shall compare with said reports, the cash, the notes, mortgages, records, and books of said officers, with a view to ascertain the amount of said funds and their safety; and to do whatever may be necessary to secure their preservation and the prompt payment of the annual interest thereon as the same becomes due; and make up to said fund losses which have accrued or may accrue. (§6286.)

1. SUIT. An action may be brought in the name of the State on relation of the board of county commissioners to recover congressional school funds.—Groves v. State, 9 Ind. 200; Butler Rogers v. Gibson, 15 Ind. 218.

537. Board's Report. 105. Each board of county commissioners, at said session, shall make out a report, in writing, of the result of such examination, showing—

First. The amounts of said funds at the close of last year.

Second. The amount added from the sale of land within the year.

Third. The number of acres of unsold congressional township school lands, and the approximate value thereof.

Fourth. The amount added from fines and forfeitures.

Fifth. The amount added by the commissioners of the sinking fund.

Sixth. The amount added from all other sources.

Seventh. The total amount of the funds.

Eighth. The amount refunded within the year.

Ninth. The amount reloaned within the year.

Tenth. The amount safely invested.

Eleventh. The amount unsafely invested.

Twelfth. The amount uninvested.

Thirteenth. The amount of fund lost since 1842.

Fourteenth. The amount of interest collected within the year.

Fifteenth. The amount of interest delinquent.

And in such report said board shall distinguish between the congressional township fund and the common school fund; and in its account of the interest or revenue derived from said funds, it shall observe the same distinction. (§6287.)

538. **Disposition of Report.** 106. Such report shall be entered on the records of said board; and copies thereof, signed by the members of the board, the auditor, and treasurer, shall be transmitted to the auditor of state and the superintendent of public instruction. (§6288.)

539. **Apportionment of Loans.** 152. Where the whole of the school funds of a county have been loaned the auditor shall apportion to each congressional township a sufficient number of mortgages to cover the principal of its congressional township fund; and where a part of the school funds only are loaned the auditor shall so apply a proportional amount; and the cash on hand, when loaned, shall be for the benefit of the congressional townships, respectively, to the amount of the entire principal of its congressional township fund; and in all loans made after the taking effect of this act the note and mortgage shall specify the particular fund borrowed. (§6289.)

[Acts 1879, p. 102. Approved March 29, 1879.]

540. **Miscellaneous School Fund Account.** 1. It shall be the duty of the auditor in each county to open an account with the congressional township school fund, to be styled the "miscellaneous school fund account." He shall transfer to said account, from each township account, all sums on hand at any time when a loan is solicited (provided the aggregate sums will equal the amount sought to be borrowed), and may lend such combined sums in one loan; which loan shall be numbered in consecutive order, and the securities shall each and all be indorsed with the number as "Miscellaneous Loan No. —," as the number may be; and he shall enter in the miscellaneous account, on the debit side, separately, the sums taken from the account of the several townships, so as to show the corresponding number of the loan, and credit the several township accounts with the same sum and the like number of loan. Thence on, as interest accrues and is paid in on such loan, he shall debit the several township accounts with the pro-rata portion of such interest accruing to each; and when such loan is paid he shall distribute back to the township accounts the several sums originally transferred from each and debit the miscellaneous account accordingly, and balance and close said account as to said loan. In all the entries throughout he shall keep each entry identified by the proper number belonging to that loan, and so of each combined miscellaneous loan, as contemplated in this act. (§6290.)

541. **Distribution and Report.** 2. In all cases where distribution is made of the school funds under the law now in force it shall include all money on hand, or which, according to law, should be on hand, not exceeding the interest on loans for one year, which shall be distributed in full, and no portion shall be omitted or retained; and the report made by the auditor shall show fully the amount actually on hand, as required and contemplated by law, and show the distribution of the same in full. (§6291.)

542. **Penalty Against Auditor.** 3. If any auditor fail or refuse to distribute and report such fund in full, as required by this act, he shall be liable to an action on his official bond. The superintendent of public instruction shall direct that action be brought upon the official bond of such defaulting auditor, and the prosecuting attorney of the proper county shall bring such action. On finding against such auditor, judgment shall be entered for the

sum so omitted by him to be distributed, with damages of 20 per cent thereon, which shall be for the use and benefit of the fund so omitted to be distributed. (§6292.)

[Acts 1905, p. 25. Approved February 21, 1905.]

543. School Funds—Expense in Making Loans. 1. The county commissioners of any county in the state, may at their discretion, at any regular meeting of their own board, order that their county shall bear any or all the expense of appraisers, abstract of title and recording mortgage in making any or all loans of school funds. Thereafter, so long as such order is in effect, the county auditor shall meet the expenses covered by it in the same manner that he does other expenses incurred by the county: *Provided*, That such expense shall not exceed one per cent of such loan, but such expense shall not be paid unless loan be made. (§6257.)

544. Repeal of Order. 2. At any subsequent regular meeting of said board the commissioners may, at their discretion, repeal any part or all of such order or orders. (§6258.)

545. Appropriations—County Council. 3. When such orders shall exist the county council shall take them into consideration in making their regular appropriations. (§6259.)

[Acts 1911, p. 149. Approved March 2, 1911.]

546. Real Estate Sales Legalized. 1. That in all cases where lands have been mortgaged to the State of Indiana for the use of either the common school fund or the congressional township school fund and the mortgage foreclosed by decree of any court of competent jurisdiction and the land bid in by the county auditor on account of the fund for the use of which such mortgage was made; and the same lands have thereafter been sold by such county auditor for a sum equal to or greater than the full amount of principal, interest, penalty and costs then due under such mortgage, but without an appraisement of said lands having been made as required by law and entered of record in said auditor's office; and such purchase price has been paid in full and such sale allowed to stand, without question by the state, for as many as twenty years next after the making thereof; such sale shall not be taken or held to be invalid for want of an appraisement of such lands prior to the sale thereof as aforesaid, nor for failure of any such county auditor to cause to be entered in his office a record of the proceedings in such matter leading up to the execution by him of the deed of conveyance for such lands, nor for any other irregularity or informality in the manner of making such sale; but every such sale, so made by any county auditor, shall be taken and held to be valid, and is hereby legalized and made valid, so that the county auditor's deed of conveyance in any such case, duly executed and entered of record in the records kept in his office, shall be effective to pass title to the lands described therein to the grantee named therein, in as full and complete manner as if such sale and conveyance had been made in strict and exact conformity to the laws then in force authorizing such sales and prescribing the method and manner of making the same: *Provided, however*, That noth-

ing contained in this act shall in any manner affect any pending litigation or the title to any lands involved in any past litigation growing out of any such sale thereof by any county auditor.

[Acts 1915, p. 31.]

547. Title to Lands—Auditor's Deed to Quiet. 1. That whenever it shall be made to appear by proof to the satisfaction of any county auditor of any county in this state that, by reason of the destruction of any of the public records of such county by fire, there is a defect in or a break in the chain of the title of the owner of any lands in school sections lying wholly or partially within such county, then such county auditor be and is hereby authorized to execute to the owner of such lands a quit-claim deed correcting and perfecting the title of such owner to such land in so far as such title is rendered defective and imperfect by reason of the destruction of such records by fire. Such owner shall pay all the necessary expenses incident to the execution of such deeds.

548. Wills—Public Bequests—Exempt from Taxation. 1. That when any money or property is given by will, or otherwise, to any executor or other trustee to be by him used and applied for the use and benefit of any municipal, educational, literary, scientific, religious or charitable purpose within the State of Indiana, and the money or property, if it had been given directly for any such purpose, would not be subject to taxation under existing laws, then and in all such cases, such money or property shall be exempt from all taxation while in the hands of such executor or other trustee: *Provided*, He shall be diligently and in good faith endeavoring to carry out the provisions of the will or other trust arrangement, and to use and apply such money or property to the purpose for which the same is donated. And in all such cases where any money or property has been assessed for taxation to any executor or trustee for the tax year 1912, the taxes thereon for such year are hereby declared to be void and shall not be collected, and for such year and all subsequent years such money or property shall be deemed to have been and be exempt from all taxation. (§10151a.)

CHAPTER XXIII.

School Indebtedness—Bonds and Notes.

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[Acts 1873, p. 60. Approved March 11, 1873.]

549. Bonds for School Buildings. 1. Any city or incorporated town in this state which shall, by the action of its school trustees have purchased any ground and building or buildings; or may hereafter purchase any ground and building or buildings; or has commenced, or may hereafter commence, the erection of any building or buildings for school purposes; or which shall have, by its school trustees, contracted any debts for the erection of such building or buildings, or the purchase of such ground and building or buildings; or such trustee shall not have the necessary means with which to complete such building or buildings, or to pay for the purchase of such ground and building or buildings, or pay such debt, may, on the filing by the school trustees of said city or town of a report, under oath, with the common council of such city, or the board of trustees of such town, showing the estimated or actual cost of any such ground and building or buildings, or the amount required to complete such building or buildings, or purchase such ground and building or buildings, or the amount of such debt, on the passage of an ordinance authorizing the same by the common council of said city or the board of trustees of such town, issue the bonds of such city or town to an amount not exceeding in the aggregate fifty thousand dollars, in denominations not less than one hundred nor more than one

thousand dollars and payable at any place that may be designated in the bonds (the principal in not less than one year nor more than twenty years after the date of such bonds, and the interest annually or semi-annually, as may be therein provided) to provide the means with which to complete such building or buildings, and to pay for the purchase of such ground and building or buildings, and to pay such debt. Such common council or board of trustees may, from time to time, negotiate and sell as many of such bonds as may be necessary for such purpose, in any place and for the best price that can be obtained therefor in cash: *Provided*, That such bonds shall not be sold at a price less than ninety-four cents on the dollar. (§6560.)

1. CONTRACT FOR GROUND. Under this section the bonds may be issued although the trustee has only contracted for the grounds or buildings.—Williams v. Town of Albion, 58 Ind. 329.

550. Use of Proceeds. 2. The proceeds of the sales of such bonds shall be paid to the said school trustees, to enable them to erect or complete such building or buildings and pay such debt. But before payment to them, such school trustees shall file with the county auditor a bond, payable to the State of Indiana, in a sum not less than the full amount of the said money so to be paid to them, and with security to be approved by said auditor, conditioned for the faithful and honest application of such money to the purpose for which the same was provided; and such trustees, and their surety or sureties, shall be liable to suit on such bond for any waste, misapplication, or loss of such money in the same manner as now provided for waste or loss of school revenue. (§6561.)

[Acts 1875, p. 29. Approved March 11, 1875.]

551. Special Tax. 3. In addition to levying the tax by cities or incorporated towns for general purposes, now authorized by law, the common council of any such cities, and boards of trustees of any such incorporated towns as shall avail themselves of the provisions of this act, are hereby authorized and required to levy, annually, a special additional tax, at the same time and in the same manner as other taxes of such city or town are levied, sufficient to pay the interest and principal of said bonds falling due; which additional special tax shall be assessed and collected as the taxes for state and county revenue are assessed and collected. The treasurer of said city or town shall keep accurate account of the revenue arising from said special tax, and shall in his reports, when required by the city or town authorities, show the amount thereof received, the amount disbursed, and the amount thereof, if any, remaining delinquent. He shall pay out the same only by the authority of the common council of said city or board of trustees of such town; and shall permit the same to be applied to no other purpose than the payment of the principal and interest of such bonds; and official bonds of city and town treasurers shall be construed to cover and include revenue arising from this source. Persons residing outside of any such city or town, and electing to be transferred to such town or city for educational purposes, or who shall send their children to the school taught in any such building, shall, with their property, be liable to such tax, as if they resided in such city or town, on all property owned by said person in the township where such city or town in located: *Provided, always*, That nothing in this act

shall be construed to prevent the school trustees of such town or city from admitting pupils into such schools from outside such city or town, in their discretion, upon the payment of tuition therefor, and without subjecting the property of their parents to such taxation, when such schools are not crowded and their admission shall, in no way, interfere with the progress of the children within such city or town: *Provided, further*, That the additional special tax, hereby authorized, shall not, in any one year, exceed fifty cents on any one hundred dollars of taxable property and one dollar on each poll. (§6562.)

1. LEVY OBLIGATORY. It is the duty of trustees to levy annually a special additional tax sufficient to pay the interest and principal of bonds issued for school buildings and falling due; and where it appears that they have failed, neglected and refused to discharge their statutory duty, a writ of mandate is the proper legal remedy.—Gardner v. Haney, 86 Ind. 17.

[Acts 1879, p. 76. Approved and in force March 20, 1879.]

552. Condition Before Building. 1. Before the school trustees of any incorporated town or city in this state shall purchase any ground for school purposes, or enter into any contract for the building of any school building or buildings, they shall file a statement with the trustees of such incorporated town, or common council of such city, showing the necessity for such purchase of ground, or the erection of such building or buildings, together with an estimate of the cost of such ground or building or buildings, and the amount of means necessary to be provided to pay for such ground or building or buildings. And they shall not purchase any ground or enter into any contract for the building of any school building or buildings, until such action be approved by the trustees of such incorporated town, or by the common council of such city: *Provided, however*, That there shall be nothing in this act so construed as to affect any purchase of grounds, or contract made for the erection of any building or buildings for school purposes, prior to the taking effect of this act. (§6563.)

[Acts 1879, p. 95. Approved March 31, 1879.]

553. Surplus Special School Revenue. 1. It shall be the duty of the board of school trustees of any city or incorporated town in this state to pay over to the common council or board of school trustees of such city or town any surplus special school revenue in the hands of such school trustees, not necessary to meet current expenses; such excess of the revenue aforesaid to be applied for the payment of the interest or principal, or both, of any indebtedness incurred under the provisions of the Act of March 8, 1873, authorizing cities and incorporated towns to negotiate and sell bonds to procure means to erect and complete unfinished school buildings, and to purchase any ground and building for school purposes, and to pay debts contracted for the erection and purchase of buildings and grounds. (§6564.)

[Acts 1917, p. 674.]

554. School Cities and Towns—Refunding. 1. That in all cities of the State of Indiana, which are incorporated under the general laws of the state, and in all incorporated towns of this state, when the school city or school town of any such city or incorporated town is indebted, which indebt-

edness is evidenced by bonds, notes or other obligations heretofore issued or negotiated by any such school city or school town, for the purpose of funding or refunding such indebtedness or any part thereof, reducing the rate of interest thereon, extending the time of payment thereof, and cancelling so much thereof as may be due or which shall become due, the board of school trustees of any school city or school town, in such cities or incorporated towns, are hereby authorized to issue the bonds of such school city or school town, with interest coupons attached, for an amount not exceeding in the aggregate the whole amount of the indebtedness of such school city or school town, which bonds may be in any denomination not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) and shall be payable at any place named therein and at a time not later than twenty (20) years from the date thereof, bearing interest not exceeding five per cent (5%) per annum, payable annually or semi-annually, and such board of school trustees of any such school city or school town may negotiate such bonds at any market or place at not less than par. In the event any city or incorporated town in this state shall have issued its bonds, notes or other obligations for the purpose of procuring funds with which to buy school grounds or erect school buildings, or repair such school buildings, and the proceeds derived by reason of the sale of such bonds have been used by the school cities or school towns of any such city or incorporated town for the purpose of buying grounds for school purposes, or erecting buildings or making improvements to school buildings, then it shall be lawful for the board of school trustees of any such school city or school town in such cities or incorporated towns and they are hereby authorized to issue and negotiate the bonds of such school city or school town for the purpose of funding or refunding such indebtedness or any part thereof for the same purposes and in the same manner and on like terms and conditions as provided for in this section in other cases.

[Acts 1913, p. 842.]

555. Levy—Sinking Fund—Interest. 2. For the purpose of paying bonds issued as provided in the foregoing section, the board of school trustees of any such school city or school town shall add to the tax duplicates thereof annually, a levy sufficient to pay all yearly interest on said bonds and may provide a sinking fund for the liquidation of the principal thereof when it shall become due, which sinking fund, together with the interest, increase of profit thereon, shall be applied to the payment of said bonds and to no other purpose. (§6577 b.)

[Acts 1913, p. 485.]

556. Schools—Cities and Towns—School Buildings—School Trustees May Issue Evidences of Indebtedness. 1. That in all cities, except cities of the first and second class, of the State of Indiana, which are incorporated under the general laws of the state, and in incorporated towns of this state, the boards of school trustees in such city or incorporated towns are hereby authorized and empowered to borrow money and to issue their bonds or notes of such school city or school town, such bonds or notes to bear interest at a rate not exceeding five per cent per annum, and payable at such times within twenty-five (25) years from date as such school board may determine. The money obtained as a loan on such bonds or notes shall be disbursed

by order of such board in payment of expenses incurred in buying grounds, building schoolhouses or in making repairs on school-buildings heretofore erected for such school city or town, and for no other use or purpose whatsoever. Before any such debt is incurred, such school officers shall give notice by publication for three consecutive weeks in some newspaper published in such city or town, and if none be so published, then in some newspaper of general circulation in such city or town, or by posting such notice in five public places in such city or town for three weeks, which notices shall state the aggregate debt proposed to be incurred, the location of real estate, if it be proposed to buy real estate; the character and size of the building to be erected, and the nature of the improvement proposed: *Provided*, That no board of trustees shall create any indebtedness including all outstanding indebtedness exceeding two per cent of the taxable property of such city or town, as ascertained by the last assessment for state and county taxes previous to the incurring of the said indebtedness: *And, provided, further*, That said bonds or notes shall not be sold at a less rate than one hundred (100) cents on the dollar. (§6572.)

NOTE. Construction of the Act of 1909, amending the statutes authorizing school trustees to borrow money and to issue bonds or notes.—Monical v. Heise, 49 App. 302, 94 N. E. 232.

The Act of 1909, Acts 1909, p. 100, amending the statute providing for the contracting of an indebtedness by school corporations of cities, is to be construed in connection with the Act of 1879, on the same subject and the notice required to be given by the Act of 1909 applies in case an indebtedness is to be incurred by contract as well as in case of issuance of notes or bonds.—Caldwell v. Bauer, 99 N. E. 117.

557. Tax to Pay Bonds and Notes. 2. For the purpose of paying said bonds or notes issued as provided in the foregoing section, said school trustees are hereby empowered to levy annually a tax not to exceed twenty-five cents in any one year on each one hundred dollars of the taxable property of such city or town as ascertained by the proper assessing officers, and one dollar on each taxable poll: *Provided*, That the revenue derived from such levy shall be used only in payment of the principal and interest of said notes or bonded indebtedness. Any surplus remaining after the payment of said indebtedness shall be covered into the special school revenues of such school city or town. (§6573.)

558. Trustees Give Bond. 3. Before any board of school trustees shall sell or negotiate any of the notes or bonds herein provided for, such board of trustees shall file with the county auditor in which such city or town is situate, a bond payable to the State of Indiana, in a sum not less than the face value of such notes and bonds so to be sold, with security to be approved by the auditor, conditioned for the faithful and honest application of all such moneys to the purposes specified in this act. (§6574.)

559. Additional Bond Issue. 1. After bonds or notes shall have been issued under this act any board of trustees of any school city or town in this state is hereby authorized and empowered to borrow money and issue its bonds or notes in any additional sum, not exceeding, including all issues outstanding, two per cent of the taxable property of such city or town, for like purposes as provided in §1 of this act. This act shall not be construed to repeal any law of this state which authorizes school trustees of such

cities or incorporated towns to levy taxes for school purposes and all parts of the general laws of this state not inconsistent herewith and which may be applicable to the general system of common schools in such cities or towns shall be in full force and effect. (§6575, as amended, 1909, p. 100.)

[Acts 1917, p. 184. Approved March 6, 1917.]

560. School Boards—Temporary Loans. 1. That whenever it is found by the board of school trustees or other proper authorities of any school city or school town that an emergency exists for the borrowing of money with which to meet the current expenses of the schools of such school town or school city, the board of school trustees or other proper authorities of such school city or school town may make temporary loans in anticipation of the current revenues of such school town or school city to an amount not exceeding thirty-three and one-third (33 1-3) per cent of the amount actually levied and in course of collection for the fiscal year in which such loans are made. *Provided, however*, That in all school cities of the first, second, third, fourth, and fifth classes, no such loans shall be borrowed in excess of the sum of twenty thousand dollars ($20,000) until the letting of the same shall have been advertised once each week for two (2) successive weeks in two (2) newspapers of general circulation published in such school city, and until sealed bids have been submitted at a regular meeting of the school board of such school city, pursuant to such notices, stipulating the rate of interest to be charged by such bidder, *and, provided further*, That such school loan shall be made with the bidder submitting the lowest rate of interest and submitting with his bid an affidavit showing that no collusion exists between himself and any other bidder for such loan.

561. Interest—Warrants 2. Such temporary loans shall be authorized by a resolution of such board of school trustees or other proper authorities, designating the nature of the consideration, the time and place payable, the rate of interest, not to exceed six per cent (6%) per annum, the revenues in anticipation of which such temporary loans are made and out of which the same are payable, and appropriating and pledging a sufficient amount of the current revenues of such school town or school city in anticipation of which such temporary loans are made, and out of which they are payable, to the payment thereof. Such temporary loans shall be evidenced by the time warrants of such school town or school city in terms designating the nature of the consideration, the time and place payable, the revenues in anticipation of which they are issued and out of which they are payable. The interest accruing on such warrants to date of maturity shall be added to and included in the face value thereof.

[Acts 1907, p. 164. Approved March 5, 1907.]

562. Cities—Second Class—Issue of Bonds. 1. The board of trustees of the school corporation in any city of the second class in this state is hereby authorized and empowered to issue, negotiate and sell the negotiable bonds of such school city or corporation in such sums and denominations as such board may deem advisable for school uses and purposes, including the purchase of real estate, the repair and erection of buildings and their equipment for school purposes, including the cost of lighting, heating and sanita-

tion and the payment of any existing indebtedness for any of the purposes aforesaid. Such bonds shall be known as "school improvement bonds" and payable at such places and at such times as such board may determine and as may be stated in the bonds and shall bear interest not to exceed four (4) per cent per annum, payable annually or semi-annually, for which interest coupons may be attached to said bonds, and may be negotiated and delivered at any market place at not less than their par value. Such bonds may be issued from time to time as the needs of such school city or corporation shall require: *Provided, however,* That the aggregate amount of all such bonds of such school city or corporation, including all prior issues outstanding at any one time, shall not exceed two (2) per cent on the value of the taxable property within such city or corporation as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness. No bonds shall be issued until the money therefor is paid to the treasurer of such board and interest thereon shall begin to accrue at the time of delivery thereof. Preparatory to offering such bonds for sale, the board of school trustees shall give notice for not less than three (3) weeks, of the date fixed for the sale of such bonds, together with a description of such bonds, and of such offer, and invite bids therefor. Such notice shall be given by advertisements once each week in at least one newspaper published in such school city or corporation, the last of which publications shall be made at least one week before the date fixed for the sale of such bonds, and by such other notice or advertisement as the board may make. Said board shall sell such bonds to the highest or best bidder, but shall have the right to reject any and all bids. (§6505, as amended, Acts 1909, p. 124.)

563. Bonds in Series—Time. 2. The full time for which such "school improvement bonds" shall run shall be twenty (20) years from the date of issuance thereof, but said bonds may be issued in a series so that such portion thereof as the board of trustees may determine may be made to mature at the end of any year within said period, or said bonds may be issued so that one-twentieth (1–20) thereof shall fall due at the end of each year, and the portion so falling due, together with the interest thereon, shall when due be paid and canceled. (§6506, as amended, Acts 1909, p. 124.)

564. Tax for Bond Redemption. 3. The board of school trustees shall have the power to, and shall levy a special tax in addition to other taxes authorized by law to be levied, sufficient to pay the principal and interest on such bonds as and when they become due and to create a sinking fund for the payment when due: *Provided, however,* That the total tax levy for the payment of the principal, interest and sinking fund of all outstanding bonds of any such city shall not exceed the sum of eighteen cents on each one hundred dollars' worth of taxable property and one dollar ($1.00) on each poll in such city in any one year, but this act shall not be construed to repeal any law of this state which authorizes boards of school trustees to levy taxes for school purposes. (§6507, as amended, Acts 1909, p. 124.)

565. Repeal. 4. All laws and parts of laws in conflict herewith are hereby repealed; but this law shall not affect any bonds heretofore issued under any law in force at the time they were issued, nor shall it affect any law applying to any cities or corporations than those of cities of the second class.

[Acts 1907, p. 655. Approved March 12, 1907.]

566. Bond Issue—Towns or Cities of 1,000-5,000. 1. The Board of school trustees of any incorporated town or city having a population of less than five thousand (5,000) and more than one thousand (1,000) as shown by the last preceding United States census, which shall have purchased ground for the erection of any building or buildings for school purposes or which shall have contracted any debts for the erection or repair of such building or buildings, and which shall not have the necessary means with which to erect such building or buildings or to pay such debt, may, on the filing of a report under oath, with the board of trustees of the incorporated town or the common council of the city in which [such] school corporation is located, showing the actual or estimated amount required to erect such building or buildings, or the amount of such debt, on the passage of a resolution, approving the same by the board of trustees of such town or common council of such city, may issue the bonds of such school town to an amount not exceeding in the aggregate forty thousand ($40,000) dollars in denominations not exceeding [not less than] one hundred ($100.00) dollars nor more than one thousand ($1,000.00) dollars, said bonds [bearing] not to exceed five per cent interest, and payable at any place that may be designated in such bonds the principal in not less than ten years nor more than twenty-four years from the date of such bonds, and the interest annually or semi-annually, as may be herein provided, to provide means to erect such building or buildings or to pay such debt. Such board of school trustees may from time to time negotiate and sell as many of such bonds as may be necessary for such purpose in any place and for the price that can be obtained therefor in cash: *Provided*, That such bonds shall not be sold for less than their par value. (§6556, as amended, 1909, p. 308.)

567. Sale—Bond for Proper Use of Funds. 2. Before any board of school trustees shall sell any of the bonds provided for in §1 of this act such board of school trustees shall file with the county auditor a bond payable to the state of Indiana in a sum not less than the face value of the bonds so to be sold, with security to be approved by the auditor, conditioned for the faithful and honest application of such money to the purpose for which the same is provided, and such board of school trustees and their sureties shall be liable to a suit on such bond for any waste, misapplication or loss of such money as is now provided for waste or loss of school revenue. (§6557.)

568. Special Tax. 3. In addition to levying the special tax for special school revenue, now authorized by law, the board of school trustees of any such towns or cities as shall have availed themselves of the provisions of this act are hereby authorized and required to levy annually a special additional tax at the same time and in the same manner as other school taxes of such towns or cities are levied, sufficient to pay the interest and principal of said bonds falling due, which additional special tax shall be assessed and collected as the taxes for state and county revenue are assessed and collected. The treasurer of said board of school trustees shall keep an accurate account of the revenue arising from said additional special tax and shall permit the same to be applied to no other purpose than the payment of the interest and principal of such bonds, and at the end of such school year the treasurer

of such board of school trustees shall file with the board of trustees of the incorporated town or common council of such city in which such school corporation is located his sworn report as to such funds, showing the amount received by him, the amount paid out, when the same was paid, to whom and for what purpose it was paid, and the amount thereof, if any remaining in his hands, and if there be remaining in his hands an amount equal to or exceeding one cent on each one hundred dollars of taxable property of such town, the same shall be taken into account in making the levy for the ensuing year, and the official bond of the treasurer of such board of school trustees shall be construed to cover and include revenue arising from this source: *Provided*, That the additional special tax levy hereby authorized shall not in any one year exceed fifty cents on any one hundred dollars of taxable property and one dollar on each poll. (§6558.)

569. Surplus Special School Revenue. 4. It shall be the duty of the boards of school trustees of such incorporated towns or cities in this state to apply any surplus special school revenue in their hands not necessary to meet the current expenses for the payment of the interest or principal or both, of any indebtedness incurred under the provisions of this act. (§6559.)

[Acts 1907, p. 576. Approved March 12, 1907.]

570. Towns Not Over 2,000—Funds for Buildings—Bonds. 1. The board of school trustees of any incorporated town having a population of not more than 2,000, according to the last preceding United States census, when it shall be found necessary for the proper accommodation of its schools to purchase a site and erect buildings thereon for school purposes and when such school trustees shall not have sufficient funds of such school town for such purposes, may on the filing of a report under oath with the board of trustees of the town in which such school corporation is situated, showing the actual or estimated amount required to pay for such ground and buildings and on passing of a resolution approving the same by said board of trustees, issue the bonds or notes of such school town to an amount not exceeding in the aggregate $6,000 in denominations of not less than $100 payable at any place designated by such school trustees, the principal to become due and payable in annual instalments as nearly equal as possible and running such length of time not exceeding 15 years, as the board of school trustees deem best, from the date of such bonds or notes, and the interest annually or semi-annually, as may be therein provided, not to exceed six per cent, per annum, to provide means with which to purchase such site and erect such school buildings. Such board of school trustees, may from time to time negotiate and sell as many of such bonds or notes as may be necessary for such purpose in any place and for the best price that can be obtained therefor in cash: *Provided*, That such bonds or notes shall not be sold for less than their par value. Such bonds or notes shall be the debt of the school town for the benefit of which they are issued, and such school town shall assume and pay and be solely liable for the payment of such bonds or notes. (§6565, as amended 1909, p. 308.)

571. Refunding Bonds. 2. In all cases where bonds or notes have been issued for the purposes stated in §1 of this act, by the board of school trustees of any such town in this state, the board of school trustees of

th school town located in such town are hereby authorized and empowered to refund said notes or bonds by issuing in lieu thereof the bonds or notes of such school town: *Provided*, That the consent of the board of trustees of such town shall be first given thereto by resolution. Such refunding bonds or notes shall be issued and sold on the same terms and subject to the same restrictions and conditions as herein provided for the original issue of bonds or notes. (§6566.)

572. Trustees' Bond. 3. Before any board of school trustees shall sell any of the bonds or notes provided for in §§1 and 2 of this act, such board of school trustees shall file with the county auditor a bond payable to the State of Indiana in a sum nor less than the face value of the bonds or notes so to be sold, with security to be approved by the auditor, conditioned for the faithful and honest application of such money to the purpose for which the same is provided, and such board of school trustees and their sureties shall be liable to a suit on such bond for any waste, misappropriation or loss of such money, as is now provided for waste or loss of school revenue. (§6567.)

573. Sale of Property. 4. Such board of school trustees may sell school property in accordance with the provision of law, and apply the proceeds of such sale to the increase of the fund provided for in §1 of this act, and such increase shall be used only for the purpose contemplated in such section in the purchase of a site and the erection thereon of school buildings. Nothing in this act shall be deemed to prevent or prohibit the funds of any township in which any such town is situated from being applied in conjunction with the funds of such school town herebefore provided for in §1 and for the purpose herein set forth, under such agreement as to construction and use of such school buildings as may be determined upon by such school authorities of the town and township: *Provided*, That any building so constructed shall be located within the limits of such incorporated town. (§6568.)

574. Special Tax. 5. In addition to levying the special tax for special school revenue now authorized by law, the board of school trustees of any such town as shall have availed themselves of the provisions of this act, are hereby authorized to levy annually a special additional tax, at the same time and in the same manner as other school taxes of such towns are levied, for the purpose of paying the interest on said bonds or notes and principal falling due, which additional special tax shall be assessed and collected as the taxes for state and county revenue are assessed and collected, and the official bond of the treasurer of such board of school trustees shall be construed to cover and include revenue arising from this source: *Provided*, That the additional special tax hereby authorized shall not in any one year exceed fifty cents on any one hundred dollars of taxable property and one dollar on each taxable poll. (§6569.)

575. Surplus Special Revenue. 6. It shall be the duty of the board of school trustees of such towns in this state to apply any surplus special school revenue in their hands, not necessary to meet current expenses, for the payment of the interest or principal, or both, of any indebtedness incurred under the provisions of this act. (§6570.)

[Acts 1911, p. 102. Approved March 1, 1911.]

576. Towns Not Over 1,000—Bonds—Tax. 1. In all incorporated towns of the State of Indiana, having a population of not more than one thousand (1,000) according to last preceding United States census, the board of school trustees of such school towns are hereby authorized and empowered to borrow money, and to issue the bonds of such school town to an amount not exceeding in the aggregate twenty-five thousand dollars, such bonds to bear interest at a rate not exceeding five per cent per annum, and payable at such time within twenty years from the date of issuing such bonds, as such school boards may determine. The money obtained as a loan on such bonds shall be disbursed by order of such board, in payment of expenses incurred in buying grounds, building new schoolhouses, or in making repairs on school-buildings heretofore erected, for such school town, and for no other purpose whatever. Before such debt is incurred such school board shall give notice by publication for three consecutive weeks in some newspaper published in such town, and if there is no newspaper published in such town, then in some newspaper of general circulation, published in the county in which such town is located, which notice shall state the aggregate debt proposed to be incurred, the location of the real estate, if it be proposed to buy real estate, or to erect a new school-building, on real estate belonging to such town, the character and size of the building to be erected, and the nature of the improvement proposed. That for the purpose of raising money to pay such bonds, and the interest thereon, as the same shall become due, such school board may levy an annual tax, not exceeding two per cent including all outstanding indebtedness on all taxable property of such town as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness: *Provided, however*, That such bonds shall not be sold at a less rate than one hundred cents on the dollar. (§6559a.)

577. How Construed. 2. This act shall not be construed to repeal any law of this state which authorizes school trustees of such incorporated towns to levy taxes for school purposes and all parts of the general laws of this state not inconsistent herewith, and which may be applicable to the general system of common schools, in such towns shall be in full force and effect: *Provided*, This act shall not authorize any school board to issue bonds for the payment of the cost of construction of any schoolhouse, for the erection of which a contract shall have been executed prior to the passage of this act. (§6559b.)

[Acts 1905, p. 33. Approved February 23, 1905.]

578. Township Business—Indebtedness—Issue of Bonds. 1. Any township in this state, being indebted to an amount beyond the ability of the current taxes to meet, and which indebtedness is evidenced by bonds, notes or other obligations heretofore issued or negotiated by such township, may for the purpose of funding or refunding such indebtedness or any part thereof, reducing the rate of interest thereon, extending the time of payment thereof and canceling so much thereof as may be due, or which shall hereafter become due, upon the vote of all the members of the advisory board of such township, together with the approval of the township trustee of such township, issue its bonds, with interest coupons attached, for an amount not

exceeding in the aggregate the amount of such indebtedness of such township, which bonds may be of any denomination not less than fifty dollars and not more than one thousand dollars, and shall be payable at any place named therein in equal annual instalments, not exceeding in all the period of fifteen years, and shall bear any rate of interest not exceeding six per cent per annum, payable semi-annually, evidenced by coupons attached to such bonds, and may be negotiated at not less than par. The amount of such bonds in no event to exceed the constitutional limit of indebtedness.

379. Duties of Advisory Board. 2. The advisory board of such township shall add to the tax duplicate thereof annually a levy sufficient to pay the yearly interest on said bonds and provide a fund for the liquidation of the principal thereof as they become due, and it shall be unlawful for the township trustee or advisory board to apply the funds arising from such levy to any other purpose.

[Acts 1917, p. 376.]

580. School Bonds and Levies Legalized. 1. That all bonds heretofore issued by the order and direction of the board of school trustees or other authorities of any school city or school town of this state, and all levies made for the payment, under color, of any statute of this state for the building of schoolhouses for the use of said school city or school town and said school trustees having sold said bonds and failed to construct said buildings, are hereby legalized, and all proceedings or acts of any such board of trustees of said city or town under which said bonds and levies were issued, are hereby fully legalized and declared valid, and all the funds derived from sale of said bonds now in the hands of the treasurer of any such school city or school town shall be transferred to the special school fund of said city or town and become a part of said fund and may be used for any purpose for which said special school fund may be used.

581. Acts of School Trustees Legalized. 2. That where heretofore any levies have been made by order of the board of school trustees or other authorities of any school city or school town under color of any statute of this state for the purpose of payment of any bonds to be thereafter sold for the construction of any schoolhouse or for the making of any schoolhouse sanitary for the use of said school city or school town and said bonds were for any cause not issued and sold and the funds derived from said levies were not used for the purpose of paying said bonds or of making said schoolhouse sanitary, are hereby legalized and all proceedings or acts of any such board of trustees of such city or town under which said levies were made are hereby fully legalized and declared valid and the funds derived from the said levies now in the hands of the treasurer of any such school city or school town or to come into his hands from any said existing levies shall, if collected or hereafter collected, be transferred to the special school fund of said city or town and become a part of said fund, and may be used for any purpose for which the special school fund of said city or town may be used.

582. Manual Training and Domestic Science Levies Legalized. 3. That where heretofore any levies have been made by order of the board of school trustees or other authorities of any school city or school town in this

state for the purpose of creating funds to carry on the teaching of manual training and domestic science under a belief and apprehension that such levies were authorized under the Vocational Education laws, and the funds so derived from such levies have been used for the purpose of teaching manual training and domestic science, are hereby fully legalized, and said expenditures so made are hereby fully legalized and declared valid, and all funds derived from said levies now in the hands of the treasurer of any school city or school town, and all funds which may hereafter come into his hands from any such existing levies, shall, when collected, be transferred to the special school fund of said school city or school town and become a part of said funds and may be used for any purpose for which said special school fund may be used.

[Acts 1917, p. 684.]

583. Erection of New School Buildings—Funds. 1. That when any township in this state in which any school-building or school-buildings shall have been condemned by the state board of health as insanitary, unsafe or unfit for use shall desire to erect a new school-building or a new central school building to accommodate the pupils of school age resident within such township, and provide for their education either in the common or high school branches of study; and when the indebtedness necessarily incurred in erecting such school-building or school-buildings and purchasing the necessary grounds will be in excess of the two per cent (2%) constitutional debt limit of such school township, the trustee and advisory board of such township may proceed, in the manner hereafter provided, to borrow the money necessary to erect such school-building or school-buildings and to purchase the necessary grounds and to issue the bonds of such school township and civil township, respectively, in any amount sufficient to defray the expense of erecting such school-building or school-buildings and purchasing such school grounds, not exceeding in the aggregate twenty-five thousand dollars ($25.000).

584. Emergency Declared. 2. Upon a special call of the trustee of such township, given in writing to each member of the advisory board of such township, stating the time, place and purpose of the meeting, such advisory board may, if a quorum be present, by consent of a majority of all the members present, declare that an emergency exists for the borrowing of money by and the issuance of the bonds of such school and civil township for the purpose of purchasing grounds and erecting a school-building or school-buildings.

585. Bonds Authorized. 3. In the event that such emergency shall be declared to exist, such advisory board shall authorize such trustee, by special order, entered and signed upon the record, to borrow a sum of money, to be named, sufficient to defray the expenses of purchasing such school grounds and erecting such school-building or school-buildings. Such advisory board shall, in like manner, authorize such trustees to issue the bonds of such school township and of such civil township in such amounts, and in such denominations, as may be necessary to secure the money borrowed to defray the expenses hereinbefore provided for. Such bonds so issued shall bear interest at a rate not exceeding five per cent (5%) per annum, to be sold for

no less than par, and payable at such times, within twenty (20) years from the date of issuance, as such advisory board may determine.

586. Debt of Civil and School Township. 4. The amount of money named by such advisory board as necessary for the purposes hereinbefore enumerated in this act shall be borrowed by such trustee as trustee of such school township, and as trustee of such civil township respectively, in such proportionate amounts as such advisory board may determine, not to exceed, in either case, two per cent (2%) on the value of the taxable property within such school township or civil township, to be ascertained by the assessments last preceding for state and county taxes. The debt created by the money borrowed by such trustee as trustee of such school township, and the bonds issued as evidence of such indebtedness shall be deemed and considered as the debt of such school township and such school township shall be liable therefor; the debt created by the money borrowed by such trustee as trustee of such civil township and the bond issued as evidence of such indebtedness shall be deemed and considered as the debt of such civil township, and such civil township shall be liable therefor.

587. Tax Levy. 5. For the purpose of raising money to pay such bonds and the interest thereon, as the same shall become due, such advisory board shall levy an annual tax on all taxable property situated within such school township and civil township in such amount as may be necessary to pay the interest and retire such bonds as they mature.

588. Expenditure of Funds. 6. The money obtained as a loan on such bonds shall be disbursed by such trustee and advisory board in payment of the expenses incurred in buying grounds and building a new school-building and for no other purpose whatsoever.

589. Sale of Bonds. 7. Before issuing such bonds, such township trustee shall advertise that bonds are to be sold in not less than one issue a week for three (3) weeks, in some paper of general circulation published in the county in which such township is situated, setting forth the amount of bonds offered, the denomination, the period to run, the rate of interest, and the date, place and hour of selling. The township advisory board shall attend the sale of bonds and shall concur therein before such bonds are sold.

CHAPTER XXIV.

TEXT-BOOKS.

SEC.		SEC.	
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[Acts 1917, p. 441. Approved March 8, 1917.]

590. Selection of Text-Books. 1. That the state board of education shall constitute a board of commissioners for the purpose of making a selection, or procuring the compilation for use in the common schools of the State of Indiana, of a series of text-books in the following branches of study, viz.: Spelling, reading, including primer, arithmetic, geography, English grammar, physiology, history of the United States, domestic science, agriculture and industrial arts, and a graded series of writing books. The matter contained in the readers shall consist of lessons commencing with the simplest expressions of the language, and by (a) regular gradation, advancing to and including the higher styles of composition, both in poetry and prose: *Provided*, That none of said text-books shall contain anything of a partisan or sectarian character: *And provided, further*, That the foregoing books shall be at least equal in size and quality, as to matter, material, style of binding and mechanical execution to standard text-books now in general use.

591. Schools—Text-Books—Bids Called For. 2. The board of commissioners shall advertise for twenty-one consecutive days in two daily papers published in this state, having the largest circulation, that at a time and place to be fixed by said notice, and not later than six months after the first publication thereof said board will receive sealed proposals on the following:

First. From publishers of school text-books, for furnishing books to the school trustees of the State of Indiana for use in the common schools of this state, as provided in this act, for a term of five years, stating specifically in such bid the price at which each book will be furnished, and accompanying such bid with specimen copies of each and all books proposed to be furnished in such bid.

Second. From authors of school text-books, who have manuscripts of books not published, for prices at which they will sell their manuscript, together with the copyright of such books, for use in the public schools of the State of Indiana.

Third. From persons who are willing to undertake the compilation of a book or books, or a series of books, as provided for in section one (1) of this act, the prices at which they are willing to undertake such compilation of any or all of such books to the acceptance and satisfaction of the said board of commissioners: *Provided*, That any and all bids by publishers, herein provided for, must be accompanied by a bond in the penal sum of fifty thousand dollars, with resident freehold surety, to the acceptance and satisfaction of the Governor of this state, conditioned that if any contract be awarded to any bidder hereunder, such bidder will enter into a contract to perform the conditions of his bid to the acceptance and satisfaction of said board: *And provided, further*, That not bid shall be considered unless the same be accompanied by the affidavit of the bidder that he is in nowise, directly or indirectly, connected with any other publisher or firm who is now bidding for books submitted to such board, nor has any pecuniary interest in any other publisher or firm bidding at the same time, and that he is not a party to any compact, syndicate or other scheme whereby the benefits of competition are denied to the people of this state: *And be it further provided*, That if any competent author or authors shall compile any one or more books of the first order of excellence, and shall offer the same as a free gift to the people of this state, together with the copyright of the same and the right to manufacture and sell such works in the State of Indiana for use in the public schools, it shall be the duty of such board of commissioners to pay no money for any manuscript or copyright for such book or books on the subject treated of in the manuscript so donated; and such board shall have the right to reject any and all bids, and at their option such board shall have the right to reject any bid as to a part of such books, and to accept the same as to the residue thereof. (§6825.)

This section is not open to the objection that it creates a monopoly.—State v. Haworth, 122 Ind. 462, 23 N. E. 946.

5591a. Bids—Contracts—Terms. 3. It shall be the duty of such board to meet at the time and place mentioned in such notice, and open and examine all sealed proposals received pursuant to the notice provided for in section two (2) of this act, and t shall be the further duty of such board to make a full, complete and thorough investigation of all such bids or proposals and to ascertain under which of said proposals or propositions the school books could be furnished to the people of this state for use in the common schools at the lowest price, taking into consideration the size and quality as to matter, material, style of binding and mechanical execution of such books: *Provided, always*, That such board shall not in any case contract with any author, publisher or publishers for the furnishing of any book, manuscript, copyright or books which shall be sold to patrons for use in the public schools of this state at a price above or in excess of the lowest contract selling price of the same book or books at any place in the United States, which prices shall include all costs and charges for transportation to the railroad or river station nearest to the several depositories in this state: *Provided*, That when any contractor furnishing books to be used in the public schools of Indiana under the provisions of this act shall contract to sell elsewhere the same book or books at a lower price than the contract price in Indiana, then the said contractor shall make the said lower price apply to

all future sales in Indiana: *Provided, further*, That if said contractor shall refuse to make such reduction in price then the Governor of the state shall investigate and if he shall find that the same book is sold elsewhere under like conditions at a lower price than the Indiana contract price, he shall then have the power and it shall be his duty to order the contract with Indiana canceled and new books advertised for as heretofore provided: *Provided, further*, That no book or books in which any member of the board may have any financial interest, either directly or indirectly shall be adopted by said board: *Provided, further*, That no contract under the provisions of this act shall be made for a period exceeding five (5) years. Nothing in this act shall be construed as affecting any contracts now existing relating to the furnishing of school books for this state: *And provided, further*, That the letting of all contracts for books shall be upon full and fair competition into which any person, persons, or corporation may enter and may bid to furnish any book or books whether such book or books be at the time in use in the schools of the state under contract or not.

592. May Procure Manuscripts. 4. If, upon the examination of such proposals, it shall be the opinion of such board of commissioners that such books can be furnished cheaper to the patrons for use in the common schools in the state, by procuring and causing to be published the manuscript of any or all of such books, it shall be their duty to procure such manuscript and to advertise for sealed proposals for publishing the same, in like manner as hereinbefore provided and under the same conditions and restrictions. And such contract may be let for the publication of all of such books, or for any one or more of such books separately; and it shall be the further duty of such board of commissioners to provide in the contract for the publication of any such manuscript for the payment, by the publisher, of the compensation agreed between such board and the author or owner of any such manuscript for such manuscript, together with the cost or expense of copyrighting the same. (§6327.)

593. State Not Liable. 5. It shall be a part of the terms and conditions of every contract made in pursuance of this act that the State of Indiana shall not be liable to any contractor hereunder for any sum whatever; but that all such contractors shall receive their pay and compensation solely and exclusively from the proceeds of the sale of the books, as provided for in this act. (§6328.)

594. Governor's Proclamation. 6. As soon as such board shall have entered into any contract for the furnishing of books for use in the public schools of this state, pursuant to the provisions of this act, it shall be the duty of the Governor to issue his proclamation announcing such fact to the people of this state. (§6329.)

595. Sale for More Than Contract Price. 12. Any school trustee charged with the sales of any books under the provisions of this act, who shall directly or indirectly demand or receive any money for any book or books in excess of the contract price, as hereinbefore provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten nor more than one hundred dollars, to which may be added imprisonment in the county jail for a term not exceeding sixty days. (§6335.)

596. Embezzlement. 13. Any county school superintendent or trustee of any township or school corporation in this state who shall fraudulently fail or refuse, at the expiration of the term for which he was elected or appointed, or at any time during such term, when legally required by the proper person or authority, to account for and deliver and pay over to such person or persons as may be lawfully entitled to receive the same, all moneys or school books which may have come into his hands by virtue of the provisions of this act, shall be deemed guilty of embezzlement, and upon conviction thereof shall be imprisoned in the state prison for any period not more than five years nor less than one year and fined in any sum not exceeding one thousand dollars, and rendered incapable of holding any office of trust or profit for any determinate period. (§6336.)

597. Books for Poor or Indigent Children. 4. It shall be the duty of each township trustee and each school board to furnish the necessary school books, so far as they have been or may be adopted by the state, to all such poor or indigent children as may desire to attend the common schools of his, or its, corporation, as in his, or its, opinion would be otherwise unable to attend such schools: *Provided*, That no township trustee in this state shall receive an amount exceeding five dollars as compensation for his services in any one year for duties performed in carrying out the provisions of this act, or the act to which it is supplemental. (§6341.)

598. Failure to Report—Embezzlement. 10. Any county school superintendent, or trustee of any township, or member of any school board in this state, who shall fraudulently fail or refuse, at the expiration of the term for which he was elected or appointed, or at any time during such term, when legally required by the proper person or authority to account for and deliver and pay over to such person or persons as may be lawfully entitled to receive the same, all moneys or school books which may come into his hands by virtue of the provisions of law, shall be deemed guilty of embezzlement, and upon conviction thereof shall be imprisoned in the state prison not more than five nor less than one year, and fined in any sum not exceeding one thousand dollars, and rendered incapable of holding any office of trust or profit for any determinate period. (§6347.)

599. Books to be Uniformly Used. 11. The books which have been, or may hereafter be, adopted by the State of Indiana for use in its common schools by virtue of this act, or the act mentioned in section one hereof, shall be uniformly used in all the common schools of the state, in teaching the branches of learning treated of in such books, and it shall be the duty of the proper school officers and authorities to use in such schools such books for teaching the subjects treated in them. (§6348.)

[Acts 1913, p. 115]

600. Schools—Uniform Text-Books. 1. That the state board of education shall constitute a board of commissioners, for the purpose of making a selection, or procuring the compilation for use in the high schools of the State of Indiana, of text-books, as prescribed in this act.

Said board shall select single text-books in the following subjects: Algebra; geometry; commercial arithmetic; history; United States, ancient,

mediaeval and modern; civil government; physical geography; commercial geography; history of English literature; history of American literature; English composition and rhetoric; Latin, —beginning Latin, Latin grammar, prose composition, Caesar, Cicero, Virgil; German conversational method grammar and grammatical method grammar.

The board shall select four elective text-books in each of the following subjects: Botany, zoology; physics; chemistry; agriculture; agricultural botany.

Said board may select single or elective text-books in any additional subjects not included in this section, which are taught in any high school or any subject which may hereafter be included in the curriculum of any high school, whenever any high school shall determine to teach such subject, and whenever such selection is made by said board, the text-book so selected shall be used in all high schools in the State of Indiana, teaching said subject. (§6324a.)

601. Name and Price of Books on Cover. 13. It shall be the duty of any person or persons, firm or corporation who may hereafter furnish and supply books under the provisions of this statute, or of the Act of 1889, the title whereof is set out in the first section of this act, to print in large letters upon the outside of the first cover of each book so furnished and supplied by him or them, the name of the adopted book, and upon the outside of the the back cover the price at which such book is furnished to be sold to pupils, under such contract, and it shall be the duty of all county superintendents, township trustees, and other school officers and school teachers, to see that all books so furnished to pupils, and bought by pupils for use in the schools of the state shall bear such imprint: *Provided*, This section shall not apply to copy books. (§6350.)

[Acts 1917, p. 539. Approved March 8, 1917.]

602. Conditions for Adoption of School Text-Books. 1. That no person shall offer any school text-book for adoption, sale or exchange in the State of Indiana until he shall have complied with the following conditions:

1. He shall file copies of all text-books proposed to be sold in the state by the company manufacturing such book or books, in the office of the state superintendent of public instruction with a sworn statement of the usual list price, the lowest net wholesale price, and the lowest net exchange price at which said book is sold or exchanged for an old book on the same subject of like grade and kind, but of a different series.

2. He shall file with the state superintendent of public instruction a bond with a responsible surety company authorized to do business in the State of Indiana as surety thereon, in a penal sum to be determined by the state superintendent of public instruction, not less than two thousand dollars ($2,000) nor more than ten thousand dollars ($10,000), conditioned as follows:

(a) That he will furnish any of the text-books listed in said statement and in any other statement subsequently filed by him within five (5) years,

to any school district and any school corporation in the State of Indiana at the lowest price contained in said statement and that he will maintain said prices uniformly throughout the state;

(b) That he will reduce such prices in Indiana whenever reductions are made elsewhere in the United States, so that at no time shall any book so filed and listed by him be sold in the State of Indiana at a higher net price than is received for such book elsewhere in the United States.

(c) That all text-books offered for sale, adoption, or exchange in the State of Indiana, shall be equal in quality to those deposited in the office of the state superintendent of public instruction as regards paper, binding, print, illustrations, subject-matter, and all other particulars that may effect the value of such text-books;

(d) In case he shall prepare an abridged or special edition of any of the books so listed by him, and shall sell such special edition elsewhere at a lower wholesale price than the wholesale price scheduled with the state superintendent, he shall file a copy of such special edition together with the price thereof as above stated, with the state superintendent of public instruction;

(e) He shall not enter into any understanding, agreement or combination to control the prices or to restrict competition in the sale of school text-books.

5603. Approval of Bond. 2. Such bond shall be approved by the attorney-general and shall continue in force for a period of five (5) years after its filing, at or before the expiration of such period a new bond shall be given, or the right to continue business within the state shall be forfeited.

5604. Price Restricted. 3. It shall be unlawful for any retail dealer in text-books to sell any books listed with the state superintendent of public instruction as hereinbefore provided at a price exceeding twelve per cent (12%) advance on the net price as so listed. The dealer shall pay all transportation charges.

5605. Authority to Purchase—Price List. 4. School cities, towns and townships are hereby authorized to purchase text-books from the publishers at the prices listed with the state superintendent of public instruction as hereinbefore provided and to sell said books to the pupils at said listed prices or at such prices as will include the cost of transportation and the cost of handling.

5606. Appointment of Dealers and Agents. 5. That on and after taking effect of this act every contract made by the state board of education as a state board of school book commissioners for furnishing both common and high school books, shall provide that the county superintendent of schools in each county of the state shall appoint two (2) or more dealers or agents within the county who shall have charge of the sale and distribution of school books contracted for by such board of school book commissioners, and who shall carry a sufficient supply of such adopted books to supply the patrons of the county. The said dealer or agents shall also furnish each publisher holding a contract with the State of Indiana under this act, satisfactory evidence of his financial responsibility, or furnish a surety bond covering the estimated

amount of sales to be made by him in any year: *Provided, further*, That said dealer or agents pay cash to the contractor or publisher for all books received within sixty (60) days of the shipment of such books. It shall be the duty of said dealer or agents annually in July to ascertain from the county superintendent the probable number of books that will be needed to supply the schools for the ensuing year, and upon receipt of this information he shall order said books on or before the first day of August in each year.

607. "Person" Defined. 6. The word "person" whenever used in this act shall be construed to mean a person, firm, corporation or association.

608. Penalty. 7. Any person violating any of the provisions of this act shall, on conviction thereof, be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment not exceeding three (3) months, or by both fine and imprisonment at the discretion of the court.

CHAPTER XXV.

Compulsory Education and Attendance Officer.

Sec.		Sec.	
609	Schools—Compulsory attendance of children.	618.	Separate schools for incorrigibles.
610	Age limit—Employment.	619.	Confirmed truant.
611	Attendance officer—Duties.	620.	Expenses—Special levy.
612	Schools—Attendance officers—How appointed.	621.	Duties of enumerators.
613	Number of attendance officers.	622.	Information for attendance officer.
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615	Record of attendance.	624.	Schools — Eleemosynary institutions.
616	State board of truancy.	625.	Compulsory education of dependent children.
617	Assistance furnished.		

[Acts 1913, p. 616.]

609. Schools—Compulsory Attendance of Children. 1. That it shall be the duty of every parent, guardian, or other person, in the State of Indiana, having the control or charge of any child, to cause such child to attend regularly a public, private, or parochial day-school, or two or more of such schools, during each school year for a term or period not shorter than that of the common schools of the school corporation in this state where the child resides. This section shall apply to every child not physically or mentally disqualified as hereinafter provided, who shall be of the age of seven years and of not more than the age of fourteen years, and shall apply to every child of fourteen years or more and not more than sixteen years of age, who is not actually and regularly employed, during the hours of the common school of such school corporation, in a useful employment or service, or is not lawfully employed in a gainful service agreeably to the provisions of this act concerning the employment of children in gainful occupations. If a child otherwise subject to the provisions of this act shall be, as evidenced by a certificate of a reputable, duly licensed, and practicing physician, either physically or mentally unfit to attend school, then during such disability this act shall not apply to such child. If in the absence of such certificate, the person having control or charge of any child shall claim that it is so physically or mentally unfit, then it shall be the duty of the common school corporation, where the child resides, to cause the child to be examined by such physican or physicians, and if such physican or physicians, shall certify that such child is mentally or physically fit to attend school, then such child shall not be exempt from the provisions of this act, but unless they so certify such child shall be exempt from the provisions of this act during the continuance of such disability: *Provided*, If a child, otherwise subject to the provisions of this act, shall by reason of deafness, or partial deafness, or of blindness, or partial blindness, be unable to secure in the school named herein a proper education by use of the sense of hearing, or of the sense of sight, the parent, guardian, or other person having the control or charge of such children shall cause them between seven and eighteen years of age to attend the Indiana state school for the deaf, or the Indiana school for the blind, during the full scholastic terms

of said schools unless discharged therefrom by the board of trustees of either of said schools; and the employment under the provisions of this act of any of said children between the ages of seven and eighteen years during the school terms of said schools respectively is hereby prohibited unless a certificate of discharge issued by the superintendent of either of said schools be presented as herein provided. Application for admission of such children to such schools, respectively, shall be made out in the usual form and passed upon by the board of trustees of said respective schools, and no child shall be permitted to enter either of said schools until the application shall have been accepted by the proper board of trustees, and upon the rejection of any child's application by either of said boards, neither such child nor its parent, guardian, or other person having control or charge of it, shall thereafter, in respect of such child, be subject to the provisions of this act, until such child's application shall be accepted.

For the purpose of enforcing this act the age of children shall be established, if possible, first, by a duly verified copy of birth certificate or baptismal certificate or passport to be produced to the proper common school corporation by parents, guardians or other persons having control or charge of children. If neither such certificate nor passport exists, then the age shall be established by the first school enumeration in which the age of the child appears. If there be no such enumeration then by the affidavit of the parent, guardian, or other person having control or charge of children, and the supporting affidavit of some disinterested person. (§6675.)

610. Age Limit—Employment. 2. No child under sixteen years of age who under the provisions of this act would otherwise be required to attend school, shall be employed in any occupation during hours wherein the common schools at the residence of the child are in session, unless the child shall have attained the age of fourteen years and shall have procured a certificate from the executive officer of the common school corporation of which the child is a resident, or some person designated by him, showing the age, date and place of birth, if known, or ascertainable, of such child and showing that the child has passed the fifth grade in the common schools, or its equivalent and a written and signed statement from the child's employer showing that the person making it has employed or is about to employ, such child; and showing the place and character of the employment. For the purpose of making the certificate herein required, it shall be the duty of such common school executive or other person designated by him, to obtain the information required as in section 1 of this act. If the date or place of birth can not be ascertained in any of these modes, then the school officer may certify that, in his opinion, the child is fourteen years of age, or more, and is physically fit to undertake the work he intends to do and to issue the certificate in accordance therewith to the employer or prospective employer of the child. The employer shall keep the certificate on file and shall produce it for inspection and demand by any inspector of the department of inspection or any other official authorized by law to inspect the same, and shall immediately when his employment of such child shall cease, in writing, notify the school corporation of that fact and the date thereof, on blanks to be attached to the certificate by the school corporation. It shall be unlawful for the employer to re-employ the child without a like new certificate. Such certifi-

cate having been presented to the employer, it shall not be necessary for the emp loyer to procure another affidavit of the child's age for the service in the occ pation mentioned in the statement of the employer to the school corpor tion. The state board of truancy shall define the meaning of the word occ pation as used in this act. (§6676.)

611. Attendance Officer—Duties. 3. Attendance officers whose app ointment is by this act provided for, are hereby empowered and authorize to enter any place wherein children are employed for the purpose of det rmining whether any children are so employed in violation of the provis ons of this act. It shall be the duty of all parents, guardians, and other pe sons having control or charge of children, and of all employers of children, to urnish the attendance officers, upon request, full information concerning chi dren employed by them, and for such purpose attendance officers shall ha e the right to examine any employment certificates, notices, registers, or oth er lists concerning employed children, required by the law to be kept on file or posted in places where children are employed. (§6677.)

[Acts 1915, p. 151.]

612. Schools—Attendance Officers—How Appointed. 4. The attendance officers mentioned in this act shall be appointed on the first day in May, unless said day be Sunday, and if so, on the following Monday, of each year and shall take office on the first day of the following August. The county board of education shall appoint an attendance officer for the county, who shall be known as county attendance officer, and who shall be under the county superintendent, in carrying out the provisions of this statute and who shall be subject to removal from office by the county board of education for inefficiency, incompetency, or neglect of duty. In counties having a population of fewer than twenty-five thousand (25,000) inhabitants, according to the last preceding United States census, the county board of education, shall appoint the county attendance officer, and the person so selected shall serve also as probation officer of such county unless the judge of the circuit court of such county shall appoint some other person to serve as such probation officer. It shall be the duty of such attendance officer to see that the provisions of this act are complied with, and when from personal knowledge or by report or complaint from any resident or teacher within the territory under his supervision, he believes that any child, subject to the provisions of this act is habitually tardy or absent from school he shall immediately give or send by mail, to the parent, guardian, or other person having control or charge of such child, a written notice that the prompt and regular attendance of such child at school is required, and, if within five (5) days after this mailing or giving of notice, the person to whom it shall be given shall not comply with the provisions of this statute respecting the attendance of such child at school, then such attendance officer shall make complaint against the person so notified in the juvenile court of that county, or the circuit court acting as juvenile court, or in any court of record, setting forth the violation of the provisions of this act. But one notice shall be required for any one child during any one school year. Any person so notified who shall violate the provisions of this statute concerning the attendance of a child at school, shall be adjudged guilty of a misdemeanor and upon con-

viction thereof shall be fined not less than one dollar ($1.00) nor more than twenty-five dollars ($25.00), to which may be added in the discretion of the court, imprisonment in the county jail for not less than two (2) nor more than ninety (90) days. Any attendance officer failing to perform any duties imposed upon him by the provisions of this act, shall upon conviction, be fined in the sum of five dollars ($5.00) for each such failure.

613. Number of Attendance Officers. 5. A city having a school enumeration of 2,000 or more children, or two or more cities or towns in any county having a combined school enumeration of 2,000 or more, may, if it or they desire, constitute a separate district for the administration of this act. Cities of this state having a school enumeration of 2,000 and less than 10,000 children, shall have but one attendance officer; cities of more than 10,000 and fewer than 20,000 may have two attendance officers; cities of 20,000 and fewer than 30,000 may have three attendance officers; cities of 30,000 and fewer then 40,000 may have four attendance officers; and cities of 40,000 or more school enumeration may have five or more attendance officers, the number to be determined by the board of school commissioners of such city. The attendance officers of cities and such separate districts constituted as above provided, shall enforce the provisions of this act in the manner mentioned in section 4 hereof and shall be subject to the penalties therein mentioned for failure in the performance of duty. The attendance officers of cities mentioned in this act shall be appointed by the school trustees or board of school commissioners, respectively, of such city. A person to be eligible for appointment as county or other attendance officer, in pursuance of this act shall have completed the eighth grade of the state's common schools or have an education equivalent thereto. (§6679.)

614. Per Diem. 6. Attendance officers shall receive from the county treasury two dollars for each day of actual service, to be paid by the county treasury upon a warrant signed by the county auditor, and the county council shall appropriate, and the the board of county commissioners shall allow the funds necessary to make such payment. No warrant for the payment of such compensation to any attendance officer shall be issued until the attendance officer shall have filed, with the county auditor an itemized statement of the time he has been employed, and until such statement shall have been certified by the superintendent of schools of the county or of the school corporation which he serves. (§6680.)

615. Record of Attendance. 7. An accurate record of the attendance of all children who have reached the age of seven years and have not passed the age of sixteen shall be kept daily by the teacher of every school, showing by the year, month, day of the month, and day of the week, such attendance. Such records shall at all times be open to the school authorities of the city or district and every such teacher shall fully answer all inquiries lawfully made by such school authorities or by attendance officers or other duly authorized persons. All school officers and teachers are hereby required to make and furnish all reports that may be required by the superintendent of public instruction, by the state board of truancy, or the attendance officer with reference to the workings of this act. (§6681.)

616. State Board of Truancy. 8. A state board of truancy, to consist of the state superintendent of public instruction, a member of the state board of education, designated by that board for such purpose, and the secretary of the board of state charities, is hereby created. Said board shall have power to determine the special educational requirements to be possessed by all persons appointed as attendance officers and shall take such steps toward the uplift, unification, and systematization of methods of attendance work in this state as may be deemed proper by them and shall have all powers specified in this act; and shall have power and be charged with the duty and responsibility of administering this act, defining the meaning of the terms used herein and setting up such standards, rules, regulations, and procedure under the provisions of this act as may be necessary from time to time to carry the same into effect and which local authorities charged with the administration of this act shall be required to follow. (§6682.)

617. Assistance Furnished. 9. If any parent, guardian, or other person having control or charge of any child, who is subject to the provisions of this act, does not have sufficient means to furnish such child with books and clothing necessary to the attendance upon school, then the school corporation where such child resides shall furnish it temporary aid for such purpose, which aid shall be allowed and repaid to such school corporation upon the certificate of the executive officer of such school corporation, by the township overseer of the poor in the manner provided by law for the relief of the poor. Such certificate shall be accompanied by such information as will enable the overseer of the poor to make the reports required by law governing the relief of the poor. (§6683.)

618. Separate Schools for Incorrigibles. 10. All common school corporations in this state are hereby empowered to maintain either within or without the corporate limits of such corporation, a separate school for incorrigible and truant children. Any child who shall be a truant or incorrigible may be compelled by the school corporation to attend such separate school for an indeterminate time. (§6684.)

619. Confirmed Truant. 11. Any child, subject to the provisions of this act who habitually absents itself from school may be declared by the attendance officer and superintendent of schools of the county or of the city where it resides a confirmed truant. Such confirmed truant may be sentenced by the judge of the juvenile court, or by the judge of the circuit court acting as judge of the juvenile court or by the judge of any court of record, if a boy to the Indiana boys' school, or if a girl, to the Indiana girls' school provided such child is within the age limit set for admission to such institutions. If deemed advisable by the judge such incorrigible child may be sent to such other custodial institution within the state as the judge may designate. Its maintenance in such institution shall be paid as the law provides for the maintenance of dependent children committed by the court to such custodial institutions. In all cases where a child is so committed to an institution it shall be placed in charge of the probation officer or some other person designated by the court, to be conveyed under his direction to the designated institution, and the actual necessary expense thereby incurred shall be paid by the board of county commissioners. A woman shall always be sent as such attendant with girls so committed. (§6685.)

620. Expenses—Special Levy. 12. For the defraying of the expenditures necessary in the carrying out of the provision of this statute, common school corporations of this state are empowered to levy in addition to any and all sums otherwise provided by law an amount of special school revenue not exceeding five cents on each $100.00 of taxable property, and such taxes shall be levied and collected as other special school revenues. (§6685a.)

621. Duties of Enumerators. 13. In order that the provisions of this act may be more definitely enforced, it is hereby provided that the enumerators of school children, in taking the annual school census shall ascertain and record the place and date of birth of every child enumerated, and the parent, guardian, or other persons having control or charge of such children, shall subscribe and take oath or affirmation that such record is true to the best of his information, knowledge, or belief. The enumerator is hereby empowered to administer such oath or affirmation and any parent, guardian, or other person having control or charge of children, who shall refuse to take such oath or affirmation, unless the refusal be based upon the want of knowledge, information, or belief, shall be adjudged guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one dollar ($1.00). (§6685f.)

622. Information for Attendance Officer. 14. On or before the first day of each school year the executive officer of each school corporation shall furnish the attendance officer thereof with the names of the children, subject to the provisions of this act, who are enumerated in the regular enumeration lists. These names shall be alphabetically arranged, and such official shall give to the attendance officer all information contained in the regular enumeration returns concerning the children so listed. The county and each school corporation, shall provide its own attendance officers with the necessary postage and such blanks as may be required by the state board of truancy or the state superintendent of public instruction pertaining to the due execution of the duties of such attendance officers. (§6685c.)

623. Penalty. 15. Any parent, guardian, or other person having control or charge of children who shall permit the employment of any child in violation of section 2 of this act and any one who shall employ a child in violation of that section and any person who shall violate any provision of this act, for which offense no penalty is hereinbefore denounced, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars, nor more than fifty dollars. (§6685d.)

[Acts 1911, p. 332. Approved March 4, 1911.]

624. Schools—Eleemosynary Institutions. 1. That no person, firm or corporation operating or conducting a correctional, charitable, benevolent or educational institution or training school in the State of Indiana, shall be permitted to receive any child over the age of six years and under the age of twenty-one years as an inmate of such institution or training school, which child is being educated by any city, town or township school corporation of the State of Indiana, unless a school transfer issued by the proper school officer accompanies the admission of such child. Such transfer to be binding on the school corporation issuing the same so long as such child remains in such institution or training school. (§6685e.)

625. Compulsory Education of Dependent Children. 2. Any person, firm or corporation operating or conducting a correctional, charitable, benevolent or educational institution or training school, in the State of Indiana, failing to send any child of school age to school who is not physically or mentally disqualified, and who is not sick, shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than five dollars and not more than twenty-five dollars ($25.00), for each and every offense and each day any child is wilfully kept from school during the school term, shall be considered a separate offense under the provisions of this act. (§6685f.)

CHAPTER XXVI.

State Normal School.

Sec.		Sec.	
626.	Established.	635.	Conditions of admission.
627.	Trustees—Corporate name.	636.	Tuition fee.
628.	Term of office—Vacancies.	637.	Principle of management.
629.	Organization—Officers.	638.	Report.
630.	Donations.	639.	Board of visitors.
631.	Location.	640.	Certificates—Diplomas.
632.	Contract for building.	641.	Pay of trustees.
633.	Model school.	642.	Pay of treasurer and agent.
634.	Duty of trustees.		

[Acts 1865, p. 140. Approved December 20, 1865.]

626. Established. 1. There shall be established and maintained, as hereinafter provided, a state normal school, the object of which shall be the preparation of teachers for teaching in the common schools of Indiana. (§6686.)

627. Trustees—Corporate Name. 2. In order to the establishment and maintenance of such a school, the governor shall appoint, subject to the approval of the senate, four competent persons, who shall, in themselves and in their successors, constitute a perpetual body corporate, with power to sue and be sued, and to hold in trust all funds and property which may be provided for said normal school, and who shall be known and designated as the "board of trustees of the Indiana State Normal School." The superintendent of public instruction shall be, ex officio a member of this board. (§6687.)

628. Term of Office—Vacancies. 3. Two members of this board shall retire, as may be determined, by lot or otherwise, in two years after their appointment, and the remaining two in four years; whereupon the governor, subject to the approval of the senate, shall appoint, as aforesaid, their successors for a period of four years. All vacancies occurring in said board from death, or resignation, shall be filled by appointments made by the governor. (§6688.)

629. Organization—Officers. 4. Said board of trustees shall meet on the second Tuesday in January, 1866, at the office of the superintendent of public instruction, and shall organize, by electing one of its number president, and one secretary, each for a term of two years; and, at this or at a subsequent meeting, it shall elect some suitable person, outside of its number, as treasurer, who shall, before entering on duty, give bond in such sum as it may prescribe. (§6689.)

630. Donations. 5. Said board shall, at its first meeting, open books to receive, from different parts of the state, proposals for donations of grounds and buildings, or funds for the procuring of grounds and erecting of buildings, for said normal school. Also, it may, if deemed needful, at this or a subsequent meeting, appoint one of its number, or other competent person, to visit

the different parts of the state and explain the nature and object of said normal school, and to receive proposals of donations of buildings and grounds, or of funds for the same. (§6690.)

631. **Location.** 6. Said board shall locate said school at such place as shall obligate itself for the largest donation: *Provided*, first, That said donation shall not be less in cash value than fifty thousand dollars; second, that such place shall possess reasonable facilities for the success of said school. (§6691.)

632. **Contract for Building.** 7. Said board, shall immediately after the selection of place of location, proceed to let a contract, or contracts, for the erection of a building, to the lowest responsible bidder: *Provided*, That no member of the board be a contractor for building or for furnishing any material therefor. (§6692.)

633. **Model School.** 8. Said board shall organize, in connection with the normal school, in the same building with the normal school or in a separate building, as it shall decide, a model school, wherein such pupils of the normal school as shall be of sufficient advancement shall be trained in the practice of organizing, teaching and managing schools. (§6693.)

634. **Duty of Trustees.** 9. Said board shall prescribe the course of study for the normal school; shall elect the instructors and fix their salaries; and shall determine the conditions, subject to limitations hereinafter specified, on which pupils shall be admitted to the privileges of the school. (§6694.)

635. **Conditions of Admission.** 10. The following conditions shall be requisite to admission to the privileges of instruction in the normal school:

First. Sixteen years of age, if females, and eighteen, if males.

Second. Good health.

Third. Satisfactory evidence of undoubted moral character.

Fourth. A written pledge on the part of the applicant, filed with the principal, that said applicant will, so far as may be practicable, teach in the common schools of Indiana a period equal to twice the time spent as a pupil in the normal school; together with such other conditions as the board may, from time to time, impose. (§6695.)

1. STUDENTS MUST SUBMIT TO RULES. A student is required to submit to any proper rule necessary for the good government of the institution.—State v. White, 82 Ind. 278.

636. **Tuition Fee.** 11. Tuition in the normal school shall be free to all residents of Indiana who fulfill the four conditions set forth in the preceding section and such other conditions as the board may require. (§6696.)

637. **Principle of Management.** 12. A high standard of christian morality shall be observed in the management of the school, and, as far as practicable, inculcated in the minds of the pupils; yet no religious sectarian tenets shall be taught. (§6697.)

638. **Report.** 13. Said board of trustees shall, biennially, make a report to the legislature, setting forth the financial and scholastic condition of the school; also make such suggestions as, in their judgment, will tend to the

improvement of the same; and in the years in which there is no session of the legislature, it shall make a report of the scholastic condition of the school to the governor, on or before the first Monday in January. (§6698.)

639. Board of Visitors. 14. The state board of education shall appoint, annually, in the month of June, or at its first meeting thereafter, a committee of three, who shall constitute a board of visitors, and shall, in a body or by one of its number, visit said school once during each term, and witness the exercises and otherwise inspect the condition of the school; and, by the close of the normal school year, they shall make a report to the board of trustees. The members of said board of visitors shall be allowed five dollars for each day's service rendered, and also traveling expenses, to be paid out of the state treasury. (As amended, 1873, p. 199; §6699.)

[Acts 1873, p. 199. Approved March 5, 1873.]

640. Certificates—Diplomas. 2. The board of trustees is authorized to grant, from time to time, certificates of proficiency to such teachers as shall have completed any of the prescribed courses of study, and whose moral character and disciplinary relations to the school shall be satisfactory. At the expiration of two years after graduation, satisfactory evidence of professional ability to instruct and manage a school having been received, they shall be entitled to diplomas appropriate to such professional degrees as the trustees shall confer upon them; which diplomas shall be considered sufficient evidence of qualification to teach in any of the schools of this state. (§6701.)

[Acts 1865, p. 140. Approved December 20, 1865.]

641. Pay of Trustees. 16. The members of the board of trustees shall each be allowed five dollars for each day's service rendered, also traveling expenses, to be paid out of the state treasury. (§6703.)

642. Pay of Treasurer and Agent. 17. Said board shall pay its treasurer, and its agent, if such be appointed, as provided for in this act, such sums for their services as shall be reasonable and just. (§6704.)

CHAPTER XXVII.

Accredited Normal Schools.

Sec.
643. State teachers' training board—Duties.
644. Courses of study.
645. Two-year course.
Sec.
646. Diplomas.
647. "Accredited" school.
648. When "accredited" denied.

[Acts 1907, p. 451. Approved March 11, 1907.]

643. State Teachers' Training Board—Duties. 1. The state board of education, in addition to its present powers and duties, shall be and is hereby constituted a state teacher's training board, and, as such, is authorized and directed to arrange for a regular system of normal school instruction throughout the state; to designate what schools and what professional departments in school shall be accredited in the state system of normal school instruction; to fix conditions upon compliance with which present and future schools and departments may become accredited as a part of such system; to establish, inspect, pass upon and approve, reject, alter, amend or enlarge courses of study and teaching in the several accredited normal schools and the accredited professional departments in schools of the state; and to determine upon credits to be allowed for the work of accredited schools and departments, and equivalents, if any, to be accepted for such work or any part thereof. Said board shall make no rule, regulation or requirement applying to any accredited school or department which shall not under like circumstances apply to each and every accredited school and department in the state, nor shall any requirement be in excess of the requirements of the Indiana state normal school; it being the purpose and intent of this act that all schools and departments for normal instruction and the training of teachers shall maintain as nearly as possible like standards of excellence and efficiency. (§6313.)

644. Courses of Study. 2. The state teachers' training board shall have power and authority to prescribe courses of study upon completion of which graded certificates of work done may be granted by any such accredited school, which certificate shall be recognized by the Indiana state normal school so far as such certificates meet the requirements of said school course. (§6314.)

645. Two-year Course. 3. In order to encourage trained teachers to teach in the district schools and in the grades in the small towns of the state, each accredited school and the state normal school may, subject to the rules and regulations of the state teacher's training board, establish a two-year course open to high school graduates, the completion of which will be accepted in lieu of a license and will entitle one to teach in the district schools and the grades in the small towns for three years without examination. (§6315.)

Note. The minimum daily wages of teachers taking advantage of this provision will be $2.12½ the first year and $2.70 during the second and third years.

646. Diplomas. 4. After two years from graduation, upon satisfactory evidence of professional experience and ability to instruct and manage a school, under rules and regulations therefor to be established by said state teachers' training board, graduates of any accredited school or department shall be entitled to diplomas to be issued by said accredited school, stating the character and amount of work completed. (§6316.)

647. "Accredited" School. 5. Said state teachers' training board shall grant to each school and department accepting the provisions of this act and agreeing to be bound by the rules and regulations of said board the right to use the word "accredited" as a part of the title or name of such school or department, which right shall be revoked by said board at any time upon the refusal of any such school or department to abide by any rule or regulation of said board. (§6317.)

648. When "Accredited" Denied. 6. It shall be unlawful for any school or department for normal instruction and the training of teachers which has not accepted the provisions of this act or whose authority under this act has been revoked to use the word "accredited" as a part of its name or title or to state that such school or department has been accredited. If any officer, employe, agent, owner, or part owner, or instructor or teacher in any school or department for normal instruction and the training of teachers which has not been accredited as provided herein or whose authority hereunder has been revoked as herein provided, shall use the word "accredited" as a part of the name or title of such school or department, or shall publish, advertise, announce or say that such school or department is accredited, upon conviction of the same, he shall be fined in any sum of not more than five hundred dollars. (§6318.)

CHAPTER XXVIII.

INDIANA UNIVERSITY.

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649. Recognized. 1. The institution established by an act entitled "an act to establish a college in the state of Indiana," approved January 28, 1828, is hereby recognized as the university of the state. (§6705.)

[Acts 1883, p. 82. Approved March 3, 1883.]

650. Tax for Endowment Fund. 1. There shall be assessed and collected, as state revenues are assessed and collected, in the year of eighteen hundred and eighty-three, and in each of the next succeeding twelve years, the sum of one-half of one cent on each one hundred dollars' worth of taxable property in this state; which money, when collected and paid into the state treasury in each of the years named in this act, shall be placed to the credit of a fund to be known as the permanent endowment fund of the Indiana University. (§6818.)

1. FORECLOSURE. A mortgage securing a loan of the permanent endowment fund may be foreclosed by public advertisement without suit, under sections 656 to 665.—Fisher v. Brown, 159 Ind. 139; 64 N. E. 614.

651. Application of Fund. 2. Whenever, after the first day of May, eighteen hundred and eight-four, there shall have been paid into the state treasury a sum of said permanent endowment fund sufficient to pay off any of the interest-bearing indebtedness of the state, it shall be the duty of the treasurer of state to pay off and cancel such indebtedness, and it shall be the duty of said treasurer of state to continue to pay off and cancel said interest-bearing indebtedness which may be due, or which, by the terms of the contract creating such indebtedness, may be paid off, whenever there is a sufficient sum of said permanent endowment fund in the state treasury to pay off the same out of said permanent endowment fund. (§6819.)

652. Bond of State. 3. It shall be the duty of the treasurer of state, immediately after paying off any of the interest-bearing indebtedness of the state, as provided for in section 2 of this act, to make and issue to the trustee of said university and to their successors in office a non-negotiable bond of the state in an amount equal to the sum drawn from said permanent endowment fund and used in such payment. Said non-negotiable bond shall be signed by the governor and the treasurer of state and attested by the secretary of state and the seal of the state, and be made payable in fifty years after date, at the option of the state, and said bond shall bear five per cent. interest from date until paid, which interest shall be paid semi-annually on the first days of May and November of each year, and the same shall be applied to the current and extraordinary expenses of said university and be paid to the trustees thereof, under the same rules and regulations as is now required by law in the payment of the revenues of said university. The non-

negotiable bonds provided for in this act, when executed, shall remain in the custody of the treasurer of state. (§6820.)

653. **Loans by State Auditor.** 4. That so much of said permanent endowment fund as shall not at any time be absorbed by the non-negotiable bonds of the state, as contemplated in this act, shall be loaned by the auditor of state at six per centum interest, payable annually in advance, in real estate security; and in making loans and disbursing interest collected the treasurer of state and the auditor of state shall be governed by the law now in force regulating the manner of making loans of the university funds and paying out interest collected, except as otherwise provided in this act. (§6821.)

654. **Mortgages Taken by State Auditor.** 5. It shall be the duty of the auditor of state to make a complete record of every mortgage and note executed on account of any loan from said permanent endowment fund in a book to be kept in his office for that purpose; and on payment of any loan to said fund said auditor shall enter a record of satisfaction in full on the margin of the record of the mortgage in his office and sign the same with his name; and he shall also, in like manner, enter satisfaction in full on the face of the mortgage; which mortgage, when presented by the mortgagor; or any person holding title under him, to the recorder of the county wherein the land mortgaged is situated, shall authorize the recorder of said county to copy such entry on the record in his office. (§6822.)

655. **State May Borrow Fund.** 6. If at any time hereafter the state shall need the loan of any part, or of all, of said permanent endowment fund, the state shall be a preferred borrower of so much of said fund as shall not be loaned at the time. But it shall be the duty of the treasurer of state to cause to be executed, as an evidence of any such loan, a non-negotiable bond of the state for the amount so borrowed in like manner as is provided in section 3 of this act: *Provided*, If at any time hereafter the said Indiana university shall be consolidated with any other educational institution or institutions of the state, or shall be removed from its present location for any cause whatever, the fund raised under the provisions of this act shall be held and used for the benefit of such institution, as consolidated or changed, notwithstanding such change or consolidation whenever so removed or consolidated: *Provided, further*, That, after said date, no further appropriation shall be made to said university. (§6823.)

656. **Trustees—Corporate Name—Officers—Powers.** 1. The board of trustees of the state university shall be eight in number, of whom not more than one shall reside in the same county, excepting the county of Monroe, from which two may be selected. They, and their successors, shall be a body politic, with the style of "The trustees of Indiana university;" in that name to sue and be sued; to elect one of their number president; to elect a treasurer, secretary, and such other officers as they may deem necessary; to prescribe the duties and fix the compensation of such officers; to possess all the real and personal property of such university for its benefit; to take and hold, in their corporate name, any real or personal property for the benefit of such institution; to expend the income of the university for its

benefit; to declare vacant the seat of any trustee who shall absent himself from two successive meetings of the board, or be guilty of any gross immorality, or breach of the by-laws of the institution; to elect a president, such professors and other officers, for such university, as shall be necessary, and prescribe their duties and salaries; to prescribe the course of study and discipline, and price of tuition in such university; and to make all by-laws necessary to carry into effect the powers hereby conferred. (§6706.)

657. The First Trustees. 2. The following persons, and their successors, shall constitute said board: Joseph S. Jenckes, of Vigo County; Joe B. McFarland, of Tippecanoe County; George Evans, of Henry County; William M. French, of Clark County; Ransom W. Aiken, of Monroe County; Johnson McCullough, of Monroe County; James R. M. Bryant, of Warren County; John I. Morrison, of Washington County; three of whom shall serve for two years, two for three years, and three for four years. (§6707.)

658. The First Meeting. 3. The first meeting of said board shall be held at the town of Bloomington, on Monday, the second day of April, 1855, when they shall determine, by lot, their several terms of service. (§6708.)

659. Vacancies. 4. Vacancies in said board, whether occasioned by death, resignation, removal from the state, expiration of terms of service, or otherwise, shall be filled by the state board of education. (§6709.)

660. Pay of Trustees. 5. The trustees of said university shall receive, when employed in the actual service of the university, the same pay as members of the general assembly. (§6717.)

[Acts 1891, p. 65. Approved March 3, 1891.]

661. Trustees of Indiana University. 1. The trustees of Indiana University shall hereafter be elected for such terms of service and in such manner, as is herein provided, and the terms of service of the trustees now in office, and of those hereafter elected, shall expire on the first day of July of the year in which such terms are to end. (§6710.)

662. Trustees' Terms Expiring 1891, Successors. 2. Successors to three trustees whose terms of service expire in the year eighteen hundred and ninety-one (1891) shall be elected by the alumni of the University at the college commencement of the year 1891; one of the trustees so selected shall serve for one year, one for two years, and one for three years. At the first meeting of the board of trustees after July 1, 1891, the several terms of service of such three trustees shall be determined by lot. At the annual commencement of the year in which their terms expire, successors to such three trustees shall be elected by the alumni of the university, each to serve for three years. When vacancies in the board of trustees arise, from the death, resignation, removal from the state, expiration of term of service, or otherwise, of any of the three trustees to be elected in 1891, or any of their successors, such vacancies shall be filled by the alumni. (§6711.)

663. Trustees' Terms Expiring 1893, Successors. 3. Successors to the two trustees, whose terms of service expire in 1893, shall be elected by the state board of education, and one of such two successors shall be elected for

a term of two years, and the other for a term of three years. Successors to the three trustees, whose terms expire in 1894, shall be elected by the state board of education, one for a term of two years, and the other two trustees for terms of three years. Successors to the five trustees herein provided to be elected by the state board of education shall be elected by said state board of education, each trustee so elected to serve for three years: *Provided*, That trustees elected by the alumni, or the state board of education, to fill vacancies caused otherwise than by expiration of terms of service, shall be elected for such unexpired terms only. When vacancies in the board of trustees arise from the death, resignation, removal from the state, expiration of term of service, or otherwise, of any of the five trustees, or their successors herein provided to be elected by the state board of education, such vacancies shall be filled by said state board of education. (§6712.)

664. Registry of Alumni. 4. A registry of the name and address of each alumnus of Indiana University residing in the State of Indiana shall be kept by the librarian of said university, who shall correct such addresses when notified by the alumni so to do. The alumni of the university shall be those persons who have been awarded and on whom have been conferred any of the following degrees: Bachelor of Arts (A. B.), Bachelor of Letters (L. L.), Bachelor of Science (B. S.), Bachelor of Philosophy (B. Ph.), Bachelor of Laws (L. L. B.), Master of Arts (A. M.), Master of Science (M. S.), Doctor of Philosophy (Ph. D.). (§6713.)

665. Nomination of Trustees. 5. Any ten or more alumni may file with the librarian of the university on or before the first day of April in each year a written nomination for the trustee or trustees to be elected by the alumni at the next college commencement. Forthwith after such first day of April a list of all such candidates shall be mailed by said librarian to each alumnus at his address. (§6714.)

666. Annual Meeting of Alumni. 6. The annual meeting of the alumni for the election of trustees shall be held at the university on the Tuesday before the annual commencement day of said university, at the hour of nine o'clock a. m., at which meeting a trustee shall be elected to serve for three years from the first day of July of such year, and any trustee or trustees which the alumni may be entitled to elect to complete any unexpired term or terms. (§6715.)

667. Method of Voting by Alumni. 7. Each alumnus resident in the State of Indiana may send to said librarian, over his signature, at any time before the meeting of the alumni for the election of such trustee or trustees, the vote for such trustee or trustees which he would be entitled to cast if personally present at such meeting, which vote such librarian shall deliver to such meeting to be opened and counted at said election, together with the votes of those who are personally present; but no person shall have more than one vote. The person or persons having the highest number of votes upon the first ballot shall be declared the trustee or trustees according as there may be one or more than one trustee to be elected: *Provided*, The votes received by said person, or by each of said persons, or at least fifty per cent. of all the votes cast. Otherwise the alumni personally present at such

meeting shall, from the two having the highest pluralities, elect a trustee, unless their pluralities shall aggregate less than fifty per cent. of the votes cast, in which case there shall be included in the number of those to be voted for, so many of those coming after such two highest in order of pluralities as will bring the aggregate of such pluralities of those to be voted for to fifty per cent. of the votes cast. (§6716.)

668. Annual Meeting. 3. Said trustees shall annually meet at the town of Bloomington at least three days preceding the annual commencement of the university. (§6718.)

669. Quorum—Temporary Appointments. 4. Five of such trustees shall constitute a quorum; and, in case an emergency is declared by the faculty, after there shall have been a called session at which the other members failed to attend, the trustees residing in the county of Monroe may fill vacancies in the faculty of the university and the board of trustees; and, in case there should not be three trustees in attendance upon such emergency, then those that are in attendance, together with such members of the faculty as may be in attendance, shall fill such vacancies; but appointments thus made shall expire at the next meeting of the board. (§6719.)

670. Seminary Township. 5. The trustees of said university shall receive the proceeds of the sales and rents of the three reserved sections in the seminary township in Monroe county, and the same shall be paid to the treasurer of said trustees, on their order. (§6720.)

671. Interest on Loans. 6. The interest arising from loans of the state university fund, as received at the state treasury, shall be paid on the warrants of the auditor of state; such warrants to be granted on allowances made to the persons entitled thereto by the board of trustees, and duly certified by their secretary. (§6721.)

672. Faculty—Powers. 7. The president, professors and instructors shall be styled "The faculty" of said university and shall have power:

First. To enforce the regulations adopted by the trustees for the government of the students; to which end they may reward and censure, and may suspend those who continue refractory, until a determination of the board of trustees can be had thereon.

Second. To confer, with the consent of the trustees, such literary degrees as are usually conferred in other universities, and, in testimony thereof, to give suitable diplomas, under the seal of the university and signature of the faculty. (§6722.)

673. No Religious Qualification. 8. No religious qualification shall be required for any student, trustee, president, professor or other officer of such university, or as a condition for admission to any privilege of the same. (§6723.)

674. No Sectarian Tenets. 9. No sectarian tenets shall be inculcated by any professor at such university. (§6724.)

675. **County Students.** 10. The trustees shall provide for the tuition, free of charge, of two students from each county in this state, to be selected by the board of county commissioners. (§6725.)

1. Each county may send two students, free of tuition fees, to be instructed in the law department, as well as any other department.—McDonald v. Hagins, 7 Blackf. 52 .

676. **Notice to Counties.** 11. The secretary of the board shall notify the county auditor of each county of the state whenever there shall not be in attendance at the university the number of students which such county is entitled to send free of tuition; of which such auditor shall notify the board of commissioners of such county at its next meeting. (§6726.)

677. **Treasurer's Bond.** 12. The treasurer of the university shall give bond in a penalty, and with surety to be approved by such board, payable to the state, conditioned for the faithful discharge of his duties; which bond shall be filed with the auditor of state. (§6727.)

678. **Board of Visitors.** 13. The Governor, lieutenant-governor, speaker of the house of representatives, judges of the supreme court, and superintendent of common schools [state superintendent of public instruction], shall constitute a board of visitors of the university, and any three thereof a quorum. (§6728.)

679. **Visitors not Attending, to be Reported.** 14. In case the members of such board of visitors fail to attend the annual commencement exercises of the university, the president of the board of trustees shall report such of them as are absent to the next general assembly, in its annual report. (§6729.)

680. **Duties of Visitors.** 15. Such board of visitors shall examine the property, the course of study and discipline, and the state of the finances of the university, and recommend such amendments as it may deem proper, the books and the accounts of the institution being open to its inspection; and it shall make report of its examination to the Governor, to be by him laid before the next general assembly. (§6730.)

681. **Duties of Secretary.** 16. The secretary of the board of trustees shall keep a true record of all the proceedings of said board, and certify copies thereof. He shall also keep an account of the students in the university according to their classes, stating their respective ages and places of residence, and a list of all graduates. (§6731.)

682. **Duties of Treasurer.** 17. The treasurer of said university shall:

First. Keep true accounts of all money received into the treasury of said university, and of the expenditures thereof.

Second. Pay out the same on the order of the board of trustees, certified by its secretary.

Third. Collect the tuition fees due the same.

Fourth. Make semi-annual settlements with the board of trustees.

Fifth. Submit a full statement of the finances of the university, and his receipts and payments, at each meeting of the board of trustees.

Sixth. Submit his books and papers to the inspection of the trustees and visitors. (§6732.)

683. Report to State Superintendent. 18. The board of trustees, its secretary and treasurer, shall report to the superintendent of common schools [state superintendent of public instruction] all matters relating to the university, when by him required. (§6733.)

684. Lectures by Faculty. 19. One member of the faculty, to be designated by a majority thereof, of which the secretary of the board shall be informed, shall, by himself or competent substitute, deliver a public lecture on the principles and organization of the university, its educational facilities (being careful not to disparage the claims of other institutions of learning in the state), in at least fifteen different counties of the state, of which he shall give due notice; and in a vacation of less duration than one month a member of the faculty, to be designated as aforesaid, shall deliver such lecture in at least three different counties; a brief statement of which lectures shall, by the persons delivering them, be reported to the board of trustees, annually, to be by them incorporated in the annual report to the general assembly; but no two such lectures shall be delivered in the same county until all the counties of the state have been lectured in. (§6734.)

685. Geological Examinations and Specimens. 20. Such lecturers shall make such geological examinations and collect such mineralogical specimens as they may be able to make and procure; a report whereof they shall make to the board of trustees, to be by it incorporated in its annual report to the general assembly; and such specimens, together with those they may procure by voluntary donations, they shall deposit in a suitable room in the university buildings, to be fitted up for that purpose. (§6735.)

686. Printing Annual Report. 21. The Governor of the state shall order the printing, annually, of five thousand copies of the annual report of the board of trustees, twenty-five hundred of which shall be for the use of the members of the general assembly and twenty-five hundred for the faculty. (§6736.)

687. Contents of Report. 22. Such report shall contain what is now included in the annual catalogue, with such other matters as may be deemed useful to the cause of education, connected with the university. (§6737.)

688. Notice of Sessions. 23. The board of trustees, through its president, shall give at least one month's notice of the commencement of each session of the university in at least one newspaper in the cities of Indianapolis, Louisville, in the State of Kentucky, and in New Orleans, in the State of Louisiana. (§6738.)

689. Buildings and Repairs. 24. The board of trustees shall, annually, appoint a committee of its body to examine the university buildings and grounds adjacent, who shall report the kind and cost of repairs, if any are needed; and one of the members of the faculty shall be appointed to take care of such buildings and grounds. (§6739.)

690. Normal Department. 25. Such trustees shall establish a normal department for instruction in the theory and practice of teaching, free of charge to such young persons, male and female, residents of the state, as may desire to qualify themselves as teachers of common schools, within the state, under such regulations as such board of trustees may make in regard to admitting to, kind, and time of delivery of lectures in such department, and the granting of diplomas therein; and such regulations shall be incorporated in the annual report of the trustees to the general assembly. (§6740.)

691. Agricultural Department. 26. Such trustees shall also establish an agricultural department in such university, under proper regulations, which shall likewise be set forth in their annual report. (§6741.)

[Acts 1857, p. 130. Approved March 7, 1857.]

692. Scholarships Transferable. 1. All scholarships in the state university, issued for or founded upon subscription moneys paid by individuals toward the construction of the university buildings, or any of them, or the right to use said scholarships for any session or sessions of the college year in said institution, may be transferred or sold by the holders thereof for a valuable consideration. (§6742.)

[Acts 1861, p. 89. Approved May 31, 1861.]

693. Perpetual Scholarships. 1. The contingent fee on perpetual scholarships, issued by the trustees of the state university, shall not be more than one dollar per session: *Provided*, That the trustees are hereby authorized to purchase said scholarships whenever, in their opinion, it is for the best interests of the university, at not more than ninety cents on the dollar, by giving notice in some newspaper published in the town of Bloomington, that they are ready to purchase said scholarship; and, after the date of such notice, no person shall be entitled to any benefits under the provisions of said scholarships, except to sell the same, as is provided in this act. (§6743.)

[Acts 1861, p. 88. Approved May 11, 1861.]

694. Library. 2. The state librarian is directed to transfer from the state library to the library of the Indiana University a complete set of journals of both houses of the legislature, a copy of all laws enacted since the organization of the state, and of all reports from the several departments of state, and of those received from other states, and from the general government, together with all other books and documents of which there are duplicates now in the state library, or shall be hereafter received: *Provided*, That such books and documents can be spared without injury to the state library and that such transfer be made without expense to the state. (§6744.)

695. State Geologist. 3. The state geologist, while he holds his office, shall be regarded as a member of the faculty of the university; and he is hereby directed, in his reconnoisances, to collect duplicate specimens of mineralogy and geology, and to deposit one set of the same in the cabinet of the state university. (§6745.)

696. Fund, How Derived—Loans. 28. The university fund shall consist of the lands in Monroe and Gibson counties, and the proceeds of sales thereof,

and all donations for the use of such university, where the same is expressly mentioned in the grant, or where in such grant the term "university" only is used; the principal of which fund, when paid into the state treasury, shall be loaned, and the annual interest thereon applied to the current expenses of the university, upon warrants drawn on the treasurer of state by the auditor of state, on the requisition of the board of trustees, signed by the president and attested by the secretary thereof. (§6746.)

697. Auditor of State to Loan—Duty. 29. It shall be the duty of the auditor of state to loan out such fund upon real estate security. He shall duly inform himself of the value of all real estate offered in pledge, and shall be judge of the validity of the title thereof; and any person applying for a loan shall produce to said auditor the title papers to such real estate, showing title in fee simple, without incumbrance and not derived through any executor's or administrator's sale, or sale on execution. (§6747.)

698. Form of Mortgage. 30. The mortgage to be taken may be in the following form in substance. (§6748 as amended, 1901, p. 342.)

I, A. B., of the county of ——, in the State of Indiana, do assign and transfer to the State of Indiana all [here describe the land], which I declare to be mortgaged for the payment of —— dollars, with interest at the rate of six per cent per annum, payable in advance, according to the conditions of the note hereunto annexed.

699. Form of Note. 31. The note accompanying the same may be, in substance, as follows. (As amended, 1901, p. 342; §6749.)

I, A. B., promise to pay to the State of Indiana, on or before the —— day of ——, the sum of ——, with interest thereon at the rate of six per cent. per annum, in advance commencing on the —— day of ——, 19——, and do agree that, in case of failure to pay any installment of said interest, the said principal shall become due and collectable, together with all arrears of interest; and on any such failure to pay principal or interest when due, five per centum damages on the whole sum due shall be collected with costs, and the premises mortgaged may be forthwith sold by the auditor of public accounts [auditor of state], for the payment of such principal sum, interest, damages and costs.

700. Loans—Security. 32. No greater sum than five hundred dollars shall be loaned to any one person out of such fund, nor shall the loan be for a longer period than five years; and the sum loaned shall not exceed one-half of the appraised value of the premises to be mortgaged, clear of all perishable improvements. The auditor may reduce the amount to be loaned on any such valuation, when, for any cause, he may have reason to believe the same was not in proportion to the prices of similar property selling in the vicinity, such valuation to be made from the valuation of the same property in the assessment of the state revenue. (§6750.)

701. Interest. 33. The rate of interest required shall be six per cent. in advance, payable annually. On failure to pay any installment of interest when due, the principal shall forthwith become due, and the note and mortgage may be collected. (As amended, 1901, p. 342; §6751.)

702. Priority of Mortgage. 34. Such mortgages shall be considered as of record from the date thereof, and shall have priority of all mortgages or conveyances not previously recorded, and of all other liens not previously incurred, in the county where the land lies. (§6752.)

703. **Recording of Mortgage.** 35. It shall be the duty of the auditor so have such mortgages recorded with due diligence, the expense whereof shall be borne by the mortgagor, and may be retained out of the money borrowed. (§6753.)

704. **Certificate as to Liens.** 36. The person applying for a loan shall file with the auditor the certificate of the clerk and recorder of the county in which the land lies, showing that there is no conveyances of or incumbrance on said land, in either of their offices. (§6754.)

705. **Abstract of Title.** 37. Such person shall also, before be receives the money to be loaned, make oath to the truth of an abstract of the title to his said land, and that there is no incumbrance, or better claim, as he believes, upon said land. (§6755.)

706. **Auditor's Duty.** 38. On making any loan of such fund, the auditor shall draw his warrant on the treasurer in favor of the borrower; and the treasurer shall pay the same and charge it to the proper fund. (§6756.)

707. **Payment.** 39. All loans refunded and all interest shall be paid in to the state treasury; and the treasurer's receipt shall be filed with the auditor of state, who shall give the payer a quietus for the amount thereof and make the proper entries upon his books. (§6757.)

708. **Satisfaction.** 40. Whenever the amount due on any mortgage shall be fully paid and the treasurer's receipt filed therefor, the auditor shall indorse on the note and mortgage that the same has been fully satisfied, and surrender them to the person entitled thereto; and on the production of the same, with such indorsement thereon, the recorder of the proper county shall enter satisfaction upon the record thereof. (§6758.)

709. **Loans, How Collected.** 41. When the interest or principal of any such loan shall become due and remain unpaid, the auditor shall proceed to collect the same by a suit on the note, or by the sale of the mortgaged premises, or both, as to him may seem most advisable. He may, also, by proper action, obtain possession of the mortgaged premises. (§6759.)

710. **Judgment.** 42. In case of suit on such note, and judgment thereon no stay of execution or appraisement of property shall be allowed. (§6760.)

711. **Notice of Sale.** 43. On failure to pay any interest or principal, when due on any such mortgage, the auditor shall advertise the mortgaged property for sale in one or more of the newspapers printed in this state, for sixty days—such sale to take place at the court house door in Indianapolis. (§6761.)

712. **Sale.** 44. At the time appointed for such sale the auditor and treasurer of state shall attend, and the auditor shall make sale of so much of the mortgaged premises to the highest bidder, for cash, as will pay the amount due for principal, interest, damages and cost of advertising and selling the same; and such sales may be in parcels, so that the whole amount required be realized. (§6762.)

713. **When Auditor to Buy.—Resale.** 45. In case no one will bid the full amount due as aforesaid, the auditor shall bid in the same, on account

of the proper fund; and as soon thereafter as may be, he shall sell the same to the highest bidder for cash, or on a credit of five years, interest being payable annually in advance. (§6763.)

714. Limit of Bid—Overplus. 46. The sale authorized in the preceding section shall not be for less than the amount chargeable on such land; but if for more, the overplus shall be paid to the mortgagor, his heirs or assigns. (§6764.)

715. Statement of Sale. 47. The treasurer shall attend and make a statement of such sales, which shall be signed by the auditor and treasurer, and, after being duly recorded in the auditor's office, shall be filed in the treasurer's office, and such record, or a copy thereof, authenticated by the auditor's or treasurer's certificate, shall be received as evidence of the matters therein contained. (§6765.)

716. Title in State, Without Deed. 48. When any land is bid in by the state at such sale, no deed need be made therefor to the state; but the statement of such sale, and the record thereof made, as in the preceding section required, shall vest the title in the state, for the use of the fund. (§6766.)

717. Sale for Cash—Certificate. 49. In case of a sale of any such land to any person for cash, on the production of the treasurer's receipt for the purchase money, the auditor shall give to the purchaser a certificate, which shall entitle him to a deed for said land, to be executed by the governor of this state and recorded in the office of the secretary of state. (§6767.)

718. Sale on Credit. 50. In like manner, when any tract bid in by the state or sold on a credit, on the execution and delivery of a note and mortgage for the proper amount, as in other cases required, the purchaser shall be entitled to a deed for the same, to be made as prescribed in the preceding section; and the transaction shall be entered, and appear upon the auditor's and treasurer's books as a payment of the sum bid, and a reloan of the same to the purchaser, and the proper receipts and warrants shall pass therefor. (§6768.)

719. Fees and Damages. 51. For the services of the auditor and treasurer in conducting such sales, they shall be entitled to receive five per cent damages, chargeable on such sales. (§6774.)

720. Accounts—Reports. 52. The auditor and treasurer shall keep fair and regular entries of the sums received and paid out on account of said fund, and shall include the same in their annual reports. (§6775.)

721. Accounts with Borrowers. 53. In addition thereto, the auditor shall keep fair and regular accounts with the borrowers of said fund, and shall report the names of borrowers with his annual report. (§6776.)

722. Interest, When Loaned. 54. Should any interest remain on hand, not wanted for the use of the university, the same may be loaned as other funds. (§6777.)

723. Unsold Lands. 55. The care and disposition of the lands belonging to and for the use of said university, remaining unsold or unpaid for,

shall be vested in the present commissioners of the reserved townships in the counties in which such lands may lie, who shall sell such as remain unsold, and such as are forfeited for non-payment, on such terms and under such regulations as the board of trustees of such university may provide; except that, in every instance, the interest on the purchase money must be paid in advance. No purchaser, his heirs or assigns, shall have the right to cut down or destroy timber standing upon such land, other than for the erection of fences and buildings thereon, or for firewood to be used on the premises, and in fairly improving it for cultivation. (§6778.)

724. **Certificates of Payment—Patent.** 56. On the first payment for any such land being made, the proper commissioner shall execute to the purchaser a certificate therefor; and, on final payment, the original certificate shall be surrendered to the commissioner, and by him filed away, and he shall give to the purchaser two final certificates, stating the whole amount of principal and the whole amount of interest paid, one of which certificates shall be forwarded to the auditor of state; and on presentation of the other to the auditor of state, if in all things correct, he shall countersign the same, which shall entitle the owner to a patent, to be issued by the Governor for the land so paid for. (§6779.)

725. **Leases.** 57. Such commissioners may, from time to time, lease any such unsold improved land, for a term not exceeding one year, until the same can be sold; and such leases shall be guarded against trespass and waste by proper covenants. (§6780.)

726. **Commissioners' Report.** 58. Such commissioners shall make an annual report to the board of trustees of the lands remaining unsold, such as are forfeited, such as are not fully paid for, the amount due, and money collected from sale, as interest or principal; which report shall be subscribed and sworn to by such commissioners, respectively, and be incorporated in the annual report of such board to the general assembly. (§6781.)

727. **Commissioners' Duty.** 59. Money collected by such commissioners shall be paid over to the treasurer of the board, who, shall execute to such commissioners two receipts therefor, each specifying the persons for whom such money was collected, and the amount thereof, whether for interest or principal; one of which receipts shall be immediately forwarded to the auditor of state, to be by him used in his settlement with such treasurer. (§6782.)

728. **Pay of Commissioners.** 60. Such board shall regulate the compensation of such commissioners. (§6783.)

729. **Patents and Recording.** 61. Patents for land sold shall be made by the Governor, and recorded in the office of the secretary of state. (§6784.)

[Acts 1855, p. 201. Approved March 3, 1855.]

730. **Pay for Managing Fund.** 7. The auditor of state and the treasurer of state, for the management of the university fund, shall be, jointly, entitled to receive five per cent upon the interest paid in on such fund;

and it shall not be lawful for them, or either of them, to make any other charges against the same. (§6785.)

731. Extension of Payments. 8. The time for the final payments to be made by the holders of original certificates for the purchase of lands reserved and granted to the state University of Indiana, in the case of all such certificates as have heretofore been issued and are now outstanding, shall be extended for the further term of three years from the time when the same may, respectively, fall due. (§6786.)

732. Forfeiture, How Prevented. 9. Any and all holders of such certificates, as aforesaid, who have forfeited such lands by the non-payment of interest on the purchase money, shall be exempted and released from such forfeiture by paying, to the commissioners of such lands, on or before the first day of August, in the year 1855, all interest due on the same, together with the interest upon the amount due at the time of such forfeiture up to the time of said payment; and upon such payment being made, in the manner, and within the time herein specified, the holder of such certificate shall have the same rights under it as if such forfeiture had never occurred. (§6787.)

733. Forfeited Lands. 10. If any portion of said lands now forfeited shall not have been redeemed on said first day of August next, as provided in the preceding section, it shall be the duty of the commissioners of such reserved lands to sell the same for the best price they can obtain, not less than the original purchase price, allowing the purchaser a credit on the same as now provided by law. If any of such lands shall hereafter be forfeited, it shall be the duty of such commissioners, if the same be not redeemed within six months from the time of such forfeiture, to sell the same on the terms in this section above provided. For their services in effecting such sales, the commissioners shall be entitled to retain, out of the first money received from the purchasers, five per cent upon the amount of the purchase price of such lands. (§6788.)

[Acts 1859, p. 234. Approved March 2, 1859.]

734. Appraisement of Lands. 1. The board of trustees of the Indiana University shall cause to be appraised the land granted by the United States to the State of Indiana for the use of the said university. (§6789.)

735. Where Filed and Recorded. 2. It shall be the duty of the said trustees, when the said appraisement shall have been made, to record the same upon their books, and to file a copy of the same in the office of the auditor of state, to be, by said auditor, recorded in his office; and, also, to file copies of such appraisements of the lands in the respective counties in the office of the auditor of the county where the lands are situate, to be by said county auditor recorded. (§6790.)

736. Duty of County Auditors. 3. The auditor of each of the said counties shall, upon said appraisements being filed as aforesaid, and when required to do so by the said board of trustees, offer for sale so much of the said lands as may be within their respective counties at public auction, in the manner hereinafter mentioned. (§6791.)

737. **Notice of Sale.** 4. Notice of the time, place and conditions of such sale shall be given by publication, for four weeks successively in a newspaper published in such county, if any there be; if not, in a newspaper in this state published nearest thereto, and also by posting up written or printed notices thereof in three of the most public places in the township in which the lands are situated, and a like notice at the courthouse door at the county seat. (§6792.)

738. **Sale.** 5. The place of sale for said lands shall be at the courthouse in each county of the state in which the said lands may be situated, and it shall be the duty of the county auditor to attend at the courthouse of his county at the time mentioned in the notice of the sale of said lands, and offer for sale at public auction, in legal subdivisions, and as near as practicable, in half-quarter sections, all the lands lying within his county; and, for that purpose he shall continue the sale from day to day, until all the said lands shall have been offered for sale. (§6793.)

739. **Terms of Sale.** 6. The said lands shall be offered for sale at the time and place mentioned in such publication, and struck off to the highest bidder, by said county auditor and county treasurer, for a price not less than the appraised value thereof—one-fourth of the purchase money to be paid in hand, and the remaining three-fourths at the expiration of ten years from the date of such sale, with interest annually in advance, at the rate of seven per cent per annum, upon the residue or deferred payment. (§6794.)

740. **Private Entry.** 7. When any of said lands, offered at public sale as aforesaid, shall remain unsold, they shall be subject to private entry with the county auditor and county treasurer of each county, upon the same terms and conditions as lands sold at public auction, for a sum not less than the appraised value thereof, by any person applying to enter the same. (§6795.)

741. **Certificate of Purchase.** 8. When any sale shall be effected, either at public or private sale as aforesaid, the county auditor shall give to the purchaser thereof a certificate, signed by him officially, bearing date on the day of sale, stating therein the name of the purchaser, the tract or tracts of land purchased by him, the number of acres contained in said tract or tracts, the price per acre, and the whole sum for which the same was sold, the amount of principal paid, and the amount of interest paid in advance. (§6796.)

742. **Certificate to be Registered.** 9. Said certificate shall be registered by the county auditor in a book provided for that purpose, by entering in said book a correct copy thereof. (§6797.)

743. **Certificate Assignable.** 10. Said certificates of entry shall be evidence of title to the land therein mentioned in the persons in whose names they shall issue, or their assigns, and shall be assignable, provided such assignments be acknowledged before the auditor of the county wherein the land is situated (who is hereby authorized to take such acknowledgments), and recorded by said auditor in a book to be kept by him for that purpose; for which service the said auditor shall be entitled to receive a fee of fifty cents, to be paid by the assignor of such certificate. (§6798.)

744. Forfeiture. 11. On failure of any purchaser to pay any instalment of interest on said deferred payment of purchase money when the same becomes due, the contract shall become forfeited and the land shall immediately revert to the state for the use of said university, and the county auditor shall forthwith proceed to sell the same in the manner and on the terms hereinbefore specified for said public sales. (§6799.)

745. Surplus. 12. If, on such subsequent sale, such lands shall produce more than is sufficient to pay the sum owing therefor, with interest and costs and five per cent damages upon the amount due on such lands, the surplus shall, when collected, be paid over to the purchaser so forfeiting or his legal representative. (§6800.)

746. Forfeiture, How Prevented. 13. At any time before such subsequent sale, payment of the sum due, with interest for the delay, and all costs, together with two per cent damages upon the amount due on such lands, shall prevent such sale and revive the original contract. (§6801.)

747. Land, How Redeemed. 14. The former owner of any lands sold as delinquent, his heirs, executors or administrators, may, at any time within one year after such resale, redeem the same by paying to the purchaser, his heirs or assigns, or to the county treasurer, for him or them, the amount of purchase money paid by such purchaser, together with all subsequent payments, either of principal or interest, which such purchaser, or those claiming under him, may have made thereon, with interest at the rate of ten per cent per annum. (§6802.)

748. Security. 15. The board of trustees may require security from the purchaser at any of said sales, sufficient to prevent any waste being committed upon the lands by the removal of timber therefrom, or otherwise. (§6803.)

749. Suit for Waste. 16. In case of any forfeiture as aforesaid, the purchaser so forfeiting shall be liable and may be sued for unnecessary injury or waste done to such land, and damages to double the amount of such injury or waste recovered therefor—such suit to be begun and prosecuted by the auditor of the county where the land lies, in the name of the State of Indiana, for the use of said university. (§6804.)

750. Patent, on Full Payment. 17. On full payment being made for any such land the county auditor shall issue to the purchaser, or his assignee, a final certificate therefor; which, upon presentation to the auditor of state, shall entitle the owner thereof to a patent for the land described therein, to be issued by the Governor and recorded in the office of the secretary of state. (§6805.)

751. Auditor's Report. 18. The county auditor shall make, on the first Monday of each month, a report of his sales of said lands to the secretary of the board of trustees and to the auditor of state, showing the date of sale, the description of the lands sold from time to time, the number of acres, the price per acre, the total amount of interest paid, and of all forfeitures, resales and redemptions thereof. (§6806.)

752. **Treasurer's Report.** 19. The county treasurer shall make a report, on the first Monday of each month, to the treasurer of the board of trustees of the university and to the treasurer of state, of all moneys received by him, whether principal or interest, on account of such lands; and the said board of trustees shall require the books of their secretary and treasurer to be so kept as to exhibit the true condition of the accounts of all such purchases and sales of the said lands. (§6807.)

753. **To Pay Money to State Treasurer.** 20. The county treasurer shall, on the first Monday of each month, pay over to the treasurer of state all sums received on account of the principal of the purchase money of said lands, and shall pay to the treasurer of the board of trustees of the university all sums received on account of the interest upon the purchase money of the said lands. (§6808.)

754. **Pay to Auditor and Treasurer.** 21. The several county auditors and treasurers shall receive for their services the same compensation which may, from time to time, be allowed by law for similar services in relation to the sale of common school lands, which shall be in full for all their services required by this act. (§6809.)

755. **Loans.** 22. The auditor of state shall loan out the said principal of the moneys received from the several county treasurers on account of said sales, in the same manner, and requiring the same security, as other portions of the university fund is now or may hereafter be required by law to be loaned out, and shall pay over to the treasurer of the board of trustees the interest derived from said principal, as a part of the income of the university. The said auditor of state shall, in his annual report to the legislature, report the names of the borrowers of the whole of the university fund, the amount borrowed by each, and the total amount on loan, at the date thereof, and the amount of the suspended debt, if any, and in whose name forfeited. (§6810.)

756. **Disposition of Proceeds.** 23. Of the first proceeds of said sum, the said board of trustees shall be entitled to receive an amount equal to the amount of interest belonging to the university and loaned out as principal by the auditor of state, as shown by the report of that officer to the general assembly at the session of 1851-52; which shall be paid to the treasurer of the board of trustees of the university, and be applied, under the order of the board of trustees, to the discharge of the debts growing out of the rebuilding of the university, and to the purchase of a suitable library, philosophical apparatus therefor, or proper furniture, in place of those destroyed by the burning of the university. (§6811.)

757. **Report of Sales.** 24. The board of trustees shall, in their annual report, include a full statement of the amount of the sales of such lands, and the application of the funds received therefor, as reported to them, from time to time. (§6812.)

758. **One Trustee to Attend Sales.** 25. One member of the board of trustees, to be designated by the board, shall attend to the public sales of the said lands, to prevent combinations injurious to the interests of the

university; and he shall have power to withdraw the said lands, or any portion thereof, from sale, when, in his judgment, the interests of the university would be thereby promoted, and shall have the power and right to designate and determine in what subdivisions any of the said lands may be sold, at the time of said public sale, for the best interests of the said university. (§6813.)

759. No Member to Deal in the Lands. 26. No member of the board of trustees of the university shall either directly or indirectly, become the purchaser of any such lands at any sale made by the county auditor, or by private entry with the auditor, after any forfeiture of purchase, and any sale made to any member of the said board, contrary to the provisions of this section, shall be absolutely void, and the purchase-money, and interest which may have been paid thereon, shall be forfeited to the university fund. (§6814.)

760. Trustees to get Information. 27. The commissioners of the university lands in Gibson and Monroe Counties, and the several county auditors and treasurers of the counties in which any of the university lands are situated shall furnish such information in relation to the lands and other property of the university, as may, from time to time, be required of them by the said board of trustees, and shall report, annually, the amount of unpaid purchase money due on the lands sold for the use of the said university, in each of their counties. (§6815.)

[Acts 1897, p. 117. Approved March 2, 1897.]

761. State Treasurer Collects Loan. 1. The treasurer of state shall proceed at once to collect all outstanding loans belonging to the permanent endowment fund of the State University, located at Bloomington, which may be due, and shall collect all other loans belonging to said fund, as fast as they become due, which money, together with all other moneys that come into the hands of said treasurer, belonging to said fund, shall be immediately apportioned by the auditor of state pro rata among the several counties in this state, according to population, as ascertained by the enumeration taken and made in the year 1895, for legislative apportionment, and that the treasurer of state, immediately thereafter, pay the same to the several county treasurers according to said apportionment made by the said auditor of state, and take their receipts therefor; and semi-annually, on the first day of May and November of each year, the said auditor of state shall apportion the amount collected during the preceding six months, and the treasurer of state shall pay the same to the respective county treasurers as above provided. (§6770.)

762. County Auditors Loan. 2. The said moneys so distributed and paid to said counties, as provided by section one (1) of this act, shall be loaned by the auditors of the respective counties in the same manner and on the same terms and conditions and under the same restrictions, subject to the same limitations, and said loans shall be again collected from the borrower, as the common school funds are now loaned and collected. And the said several counties shall be liable in the same manner and to the same extent for the principal and interest of said fund, and for the payment of the same,

as they are now liable for the payment of the interest and principal of the common school funds. (§6771.)

763. **Auditor of State Can Not Loan.** 3. The auditor of state is hereby prohibited from making any further loans from said fund, and all money in his hands belonging thereto shall be by the auditor of state apportioned, and by the treasurer of state paid to the several counties, where apportionment is made as provided in section one (1) of this act. (§6772.)

764. **Counties Pay Interest.** 4. The several counties of this state shall pay the interest on said fund to the treasurer of state at the same time and in the same manner as interest is now paid on the school fund, and said treasurer of state shall at once pay the same to the trustees of the Indiana University and take proper receipts therefor. (§6773.)

[Acts 1903, p. 142. Approved March 3, 1903.]

765. **Suit for Deficiency After Sale.** 1. In all cases where the auditor of state has made loans from the university fund, college fund or the permanent endowment fund of the Indiana State University, which said loans were secured by mortgage upon real estate, and when said mortgaged premises have been heretofore or which may be hereafter forfeited to the state for nonpayment of the amount due thereon, or have been heretofore or hereafter shall be bid in by the auditor of state for the benefit of said respective funds, and where said mortgaged premises when sold according to law after having been forfeited or bid in by the auditor of state have failed or shall fail to sell for a sum sufficient to satisfy the principal and interest of the loan made and the damages accrued by reason of such failure and costs, the auditor of state shall bring suit on the note executed by the mortgagor for the deficiency, for which deficiency the maker shall be liable; and when judgment shall be rendered thereon, no appraisement of property shall be allowed on execution issued on such judgment. (§6769.)

[Acts 1909, p. 99. Approved March 2, 1909.]

766. **School of Medicine.** 1. The trustees of Indiana University are hereby authorized to conduct a medical school in Marion county, Indiana, and to receive gifts of real estate and other property on behalf of the State of Indiana for the maintenance of medical education in said county, conditioned that said trustees shall conduct as an integral part of the Indiana University school of medicine a full four years' course in medicine in said Marion county, Indiana: *Provided*, That there shall be no discrimination for or against any school or system of medicine in the university, and that all or each of the schools or systems of medicine now recognized by the state shall have adequate opportunity to teach the practice of medicine in the university according to the principles advocated by them respectively, and that it shall be the duty of the trustees of Indiana University to provide such instruction in as thorough a manner as the means at their disposal will permit, and as nearly as possible to provide the same quality of instruction whenever a reasonable demand shall be made for the same: *Provided, further*, That premedical or other collegiate work done in any college or University

of Indiana, which is recognized by the state board of education of Indiana as a standard college or university, shall be received and credited in the Indiana University school of medicine upon the same conditions as work of the same kind, grade and amount done in the department of liberal arts of Indiana University. (§6741a.)

CHAPTER XXIX.

PURDUE UNIVERSITY.

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[Acts 1865, p. 106. Approved March 6, 1865.]

767. Agricultural College Scrip. 1. The State of Indiana accepts and claims the benefits of the provisions of the acts of congress, approved July 2, 1862, and April 14, 1864, and assents to all the conditions and provisions in said acts contained. (§6844.)

1 CONGRESSIONAL LEGISLATION. The acts of congress referred to in this section will be found in the Acts of 1865 (p. 106), set out at length in the preamble.

768. The First Trustees and Original Name. 2. The Governor of this state, for the time being, and Alfred Pollard of Gibson, Smith Vawter of Jennings, Henry Taylor of Tippecanoe, and Lewis Burk of Wayne, and their successors, are created a body corporate, under the name of "The Trustees of the Indiana Agricultural College." (§6845.)

769. Sale and Investment of Scrip. 5. Said trustees shall, by the hand of their treasurer, claim and receive from the secretary of the interior the land scrip to which this state is entitled by the provisions of said acts of congress; and, under their direction, said treasurer shall sell the same, in such manner and at such times as shall be most advantageous to the state, and shall invest the proceeds thereof, and any interest that may accrue thereon, in the stocks of the United States, or of this state, yielding not less than five per cent per annum, upon the par value of the stocks; and said prin-

cipal and interest shall continue to be so invested, until further provision shall be made by the general assembly of this state for fulfilling the requirements of said acts of congress. (§6846.)

[Acts 1869, p. 24. Approved May 6, 1869.]

770. Donations Accepted. 1. The donation offered by John Purdue, as set forth and communicated to the present general assembly in the message of the Governor, on the sixteenth day of April, 1869, and the donations offered by the county of Tippecanoe, the trustees of the Battle-Ground Institute, and the trustees of the Battle-Ground Institute of the Methodist Episcopal church, as set forth and communicated to the general assembly, at its last session, in the message of the Governor, of the twenty-seventh day of January, 1869, are hereby accepted by the State of Indiana. (§6847.)

771. Location. 2. The college contemplated and provided by the act of congress, approved July 2, 1862, entitled "An act, donating public lands to the several state and territories which may provide colleges for the benefit of agriculture and the mechanic arts," is hereby located in Tippecanoe county, at such point as may be determined before the first day of January, 1870, by a majority vote of the trustees of the Indiana agricultural college; and the faith of the state is hereby pledged that the location so made shall be permanent. (§6848.)

772. Permanent Name. 3. In consideration of said donation by John Purdue, amounting to one hundred and fifty thousand dollars, and of the further donation of one hundred acres of land appurtenant to the institution, and on condition that the same be made effectual, the said institution, from and after the date of its location as aforesaid, shall have the name and style of "Purdue university;" and the faith of the state is hereby pledged that said name and style shall be the permanent designation of said institution, without addition thereto or modification thereof. (§6849.)

773. Corporate Name—Powers and Duties of Trustees. 4. From and after the date of the location made as aforesaid, the corporate name of the trustees of the Indiana agricultural college shall be "The trustees of Purdue university;" and they shall take in charge, have, hold, possess, and manage, all and singular, the property and moneys comprehended in said donations, as also the fund derived from the sale of the land scrip donated under said acts of congress, and the increase thereof, and all moneys or other property which may hereafter at any time be donated to and for the use of said institution. They shall also have power to organize said university in conformity with the purposes set forth in said acts of congress, holding their meetings at such times and places as they may agree on, a majority of their number constituting a quorum. They shall provide a seal; have power to elect all professors and teachers, removable at their pleasure; fix and regulate compensations; do all acts necessary and expedient to put and keep said university in operation; and make all by-laws, rules, and regulations required or proper to conduct and manage the same. (§6850.)

[Acts 1893, p. 36. Approved February 17, 1893.]

774. Dedication of Street. 1. The trustees of Purdue University are hereby empowered to dedicate for a public street, adjoining the town of

West Lafayette, Indiana, a strip of land thirty feet in width, and described as follows: Beginning at the southeast corner of the lands owned by said university, and running thence north along the east side of said university lands to the state road, a distance of about thirteen hundred and fifty feet. (§6861.)

775. **Power to Dedicate.** 2. That the trustees of Purdue University are hereby empowered to dedicate for public streets such strips of lands extending through or along the grounds owned by said university as they may deem for the best interest of said university. (§6862.)

[Acts 1869, p. 24. Approved May 6, 1869.]

776. **Privileges of John Purdue.** 5. In further consideration of his said donation, John Purdue shall, from and after the taking effect of this act be added as a member of said trustees of the Indiana agricultural college, and he shall also be a member of said trustees of Purdue University. Should he, at any time, cease to be such member, he shall be continued as an advisory member of said trustees; and he shall, during his lifetime, have visitorial power, for the purpose of inspecting the property, real and personal, of said university, recommending to the trustees such measures as he may deem necessary for the good of the university, and investigating the financial concerns of the corporation. And he is authorized to make report of his examination, inspection, and inquiries, to the general assembly, at any session thereof. (§6852.)

777. **Amendment or Repeal.** 6. This act shall be subject to future amendment or repeal, except so far as it provides for the acceptance of donations, the location of the college, the name and style thereof, and the rights and privileges conferred upon John Purdue. (§6853.)

[Acts 1875, p. 120. Approved March 9, 1875.]

778. **Appointment of Trustees.** 1. On the first day of July, 1895, it shall be the duty of the Governor of this state to appoint nine trustees for Purdue University, two of whom shall be nominated by the state board of agriculture, one by the state board of horticulture, one by the Purdue Alumni Association, and five selected by the Governor himself: *Provided*, That no more than two of such trustees as may be selected by the Governor himself shall be appointed from any one congressional district: *And also provided*, That the first board so appointed shall include the three persons who at the time are the last nominees of the state board of agriculture and the state board of horticulture: *And also provided*, That the board of trustees now in office shall remain in office and perform all the duties thereof as now required by law until their successors are duly appointed and qualified, as provided in this act: *And provided, further*, That the nominee of the Purdue Alumni Association shall be a graduate of Purdue University: *And also provided*, That the nominee of Purdue Alumni Association shall be appointed by the Governor of the State of Indiana to fill the second vacancy in said board occurring after the taking effect of this act, by expiration of term or otherwise, among the trustees heretofore appointed by the Governor himself. (§6854, as amended, Acts 1909, p. 357.)

779. Term of Office. 2. The persons so appointed shall constitute the board of trustees of said university, and shall hold their offices as follows: Two members of the first board shall hold their offices for one year and until their successors are appointed; two for two years, and two for three years; and at the expiration of the term of office of any of the members of the first or any subsequent board, their successors shall be appointed in like manner, and with like nomination, as provided in this act, to hold their offices for the term of three years, and until their uccessors are appointed. (§6855 as amended 1895, p. 201.)

780. Vacancies, How Filled. 3. If, from any cause, a vacancy occur in said board, the same shall be filled, by appointment, to fill the unexpired term, the person appointed to fill such vacancy being nominated and appointed, or appointed, in the same manner as his predecessor had been at the commencement of such term. (§6856.)

781. Officers—Treasurer's Bond and Duties. 4. Said trustees shall, at their first meeting after their appo ntment, and every two years thereafter, cho ose a president of said board; and they shall, at such meeting, and every two years thereafter, and whenever a vacancy occurs, elect, by ballot, a secretary and treasurer, neither of whom shall be a member of the board whose compensation shall be fixed by the trustees. The said treasurer shall give such bond to the State of Indiana in any sum not less than fifty thousand dollars for the faithful execution of his trust, with sufficient sureties as said trustees may require; and he shall receive, take charge of, and, under the direction of said trustees, manage all [the] stocks and funds belonging to said university. (As amended 1891. p. 34; §6857.)

[Acts 1877, p. 60. Approved March 12, 1877.]

782. County Students. 1. The board of commissioners of each county in this state may appoint, in such manner as it may choose, two students, or scholars, to Purdue University, who shall be entitled to enter, remain, and receive instruction in the same, upon the same conditions, qualifications and regulations prescribed for other applicants for admission to, or scholars in, said university: *Provided, however*, That every student admitted to said university by appointment, by virtue of this act, shall in nowise be chargeable for room, light, heat, water, tuition, janitor or matriculation fees; and said student shall be entitled, in the order of admittance, to any room in the university then vacant and designed for the habitation or occupancy of a student; and such student so admitted shall have prior right to any such room, subject to the rules of the university, over any student not appointed and admitted as aforesaid. (§6858.)

783. Students. 2. No more than two students at the same time from any one county shall be entitled to admittance to said university, under the provisions of this act. But the board of commissioners of each county may, from time to time, appoint as aforesaid, to any vacancy in its appointments. (§6859.)

[Acts 1881, p. 585. Approved April 14, 1881.]

784. Investment of Fund. 1. The trustees of Purdue University, by their treasurer, are hereby authorized, on or after the first day of April, 1881, to surrender to the treasurer of state the bond executed to said university by the State of Indiana, bearing date April 1, 1878, and payable, in the sum of two hundred thousand dollars, on April 1, 1881; and a like bond executed by the state to said university, dated April 1, 1879, and payable, in the sum of one hundred and twenty-five thousand dollars, on April 1, 1884; and also to pay, out of the proceeds of the United States five per cent bonds now held by said university (which said trustees are hereby empowered to sell), the sum of fifteen thousand dollars to said treasurer of state; who, thereupon, is hereby directed to issue and deliver to said treasurer of Purdue University a non-negotiable bond of the State of Indiana, to be signed by the Governor and state treasurer, and attested by the secretary of state and the state seal (the same to be dated April 1, 1881, and payable, twenty years after its date, to the trustees of Purdue University and their successors, with interest at the rate of five per cent per annum, payable quarterly after date of the bond), all for the use of Purdue University—said bonds surrendered, and fifteen thousand dollars paid, constituting the endowment fund of said university derived from the gift of the United States. (§6860.)

[Acts 1889, p. 351. Approved March 9, 1889.]

785. Gift to Establish Institute of Technology. 1. Whenever any individual or individuals shall give, donate or bequeath a sum of money or other valuable property for the purpose of establishing an institute of technology or other special schools in connection with Purdue University in and on the grounds of said university, the trustees of said university are hereby authorized and empowered to accept such donation, gift or bequest for and on behalf of the State of Indiana for such institute on such terms as may be agreed upon by and between such trustees and said donor or donors or devisior [devisor]; and the said trustees are hereby authorized to establish, maintain and operate such an institution in connection with Purdue University: *Provided*, That such institute of technology shall be freely open to students upon the same terms upon which Purdue University is open to students. *And, provided*, That nothing in this act shall enable or authorize said trustees to make any contract with said donor or donors by which any debts shall be created beyond or above current legislative appropriations to the university. *And, provided further*, That the terms upon which such donations are received and accepted shall not be effective unless the same are endorsed and approved by the Governor of the State of Indiana. (§6863.)

[Acts 1903, p. 508. Approved March 10, 1903.]

786. Farmers' Reading Courses. 1. In order to promote home study and reading in subjects relating to rural life and the principles of agriculture the trustees and faculty of Purdue university shall encourage and direct farmers' reading courses and publish and distribute circulars and pamphlets of information on the above subjects as may seem profitable in promoting the agricultural interests of the state. (§6851.)

[Acts 1911, p. 80. Approved February 27, 1911.]

787. Agriculture—Rural Improvement—Appropriation. 1. In order to promote the improvement and advancement of agriculture, domestic science and rural life, among the people of the several counties of the State of Indiana, and aid in the diffusion among the people of the several counties of the State of Indiana, useful and practical information on subjects connected with agriculture, domestic science and rural betterment, the following sums of money are hereby appropriated to Purdue University, out of any moneys in the general fund of the state treasury not otherwise appropriated, $10,000 for the fiscal year ending Spetember 30, 1911, and $30,000.00 annually thereafter, said sums to be paid quarterly to the treasurer of Purdue University.

788. Uses of Appropriation. 2. The sum of ten thousand dollars ($10,000.00) available during the current year and the thirty thousand dollars ($30,000.00) annually appropriated thereafter in section 1 of this act shall be expended by the school of agriculture and the agricultural experiment station of said university in securing the necessary office force, extension workers, lecturers and equipment, and in defraying any other expenses in the study of rural conditions and in promoting and aiding in the organization and holding in various parts of the state, farmers' short courses, farmers' institutes, farmers' conferences, contests, lectures and demonstration of work of various types, and any other forms of agricultural extension, instruction and demonstration agreed upon by the authorities of Purdue University as being necessary to accomplish the purpose of this act.

789. Extension Department. 3. The work proposed by this act shall be carried out by the said Purdue University through the extension department of the school of agriculture and agricultural experiment station under such rules, regulations and methods as may be prescribed, and along lines to be determined by the following officers: The board of trustees, the president of the university, the dean of the school of agriculture, the director of the agricultural experiment station, the superintendent of agricultural extension of Purdue University, and the advisory committee as provided for in section 3 of chapter 167, laws of 1909.

790. Farmers' Institute—County Auditor. 4. For the purpose of defraying the local expenses of meetings held and other work done under the provisions of section 2 and in accordance with the rules and regulations provided for in this act, such as hall rents, printing, advertising, prizes for contests and other local expenses, the county farmers' institute chairman, is hereby authorized to file with the county auditor, an itemized list of expenses of such meeting or meetings, and other work done and the county auditor shall, after such claims have been approved by the county commissioners, draw a warrant or warrants on the county treasurer who shall pay same: *Provided*, That in no instance shall the aggregate of such items exceed an amount equal to twenty-five cents for each square mile of territory in said county.

791. County Council—Appropriation. 5. That there may be funds in the county treasurer available for the payment of such warrants

as are herein provided for, the county council shall appropriate annually an amount equal to twenty-five cents for each square mile of territory in said county.

792. Repeal. 6. An act entitled "An act to encourage the study of agriculture, horticulture, economic entomology, and agricultural chemistry, providing for the county institutes, prescribing the duties of the trustees, and faculty of Purdue University in connection therewith and making an appropriation therefor," approved March 9, 1889; an act to amend section 3 of an act to encourage the study of agriculture, horticulture, economic entomology, and agricultural chemistry, providing for county institutes, prescribing the duties of trustees and faculty of Purdue University in connection therewith and making appropriations therefor, approved March 9, 1889, approved March 4, 1901; and an act entitled "An act for the encouragement of farmers' institutes and authorizing the county auditor to draw warrants under certain conditions," approved March 8, 1907; are hereby repealed.

[Acts 1891, p. 483. Approved March 7, 1891.]

793. Acceptance of United States Grant. 1. *Whereas*, an act of congress, approved August 30, 1891, entitled an act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an act of congress, approved July 2, 1862, provides, among other things, that the grants of moneys, authorized by this act, are made subject to the legislative assent of the several states and territories to the purpose of said grants: *Provided*, That the payments of such instalments of the appropriation herein made, as shall become due to any state before the adjournment of the regular session of the legislature meeting next after the passage of this act, shall be made upon the assent of the Governor thereof, duly certified to the secretary of the treasury; therefore:

Be it resolved by the State of Indiana, That the legislative assent be, and the same is hereby, given to the purpose of said grant, and Purdue University is hereby designated as the agricultural college entitled to the said grant.

[Acts 1905, p. 142. Approved March 3, 1905.]

794. Agricultural Experiment Station Work—Appropriation. 1. That in order to aid in acquiring and disseminating among the people of the state useful and practical information on subjects relating to agriculture, and to promote investigation concerning the principles of agricultural science the following sums of money are hereby annually appropriated to Purdue University for the exclusive use of the agricultural experiment station of said university: For the fiscal year ending September 30, 1909, $75,000.00, and $75,000.00 annually thereafter, said sums to be payable quarterly to the treasurer of Purdue University, out of any moneys in the treasury of the State of Indiana belonging to the general fund and not otherwise appropriated, the same to be expended for the purpose of providing the necessary equipment, and paying the expenses of conducting experiments and investigations and otherwise acquiring information and disseminating said information by

means of publication, lectures and otherwise as hereinafter provided. (§6864, as amended, 1909, p. 403.)

795. Uses of Appropriation. 2. Of the $75,000.00 annually appropriated in section one of this act, $10,000.00 annually is to be used for the advancement of the work of the agricultural experiment station of Purdue University in general; $10,000.00 annually for the advancement of the horticultural interests of the state; $15,000.00 annually for the improvement of the soils and crops of the state; $10,000.00 annually for the advancement of the dairy interests of the state; $10,000.00 annually for the advancement of the live stock interests of the state; $5,000.00 annually for the investigation of hog cholera and other animal diseases; $5,000.00 annually for the advancement of the poultry interests of the state, and $10,000.00 annually for providing the necessary equipment and paying the expenses of the extension work of the agricultural experiment station of Purdue University. (§6865, as Amended, 1909, p. 403.)

796. Work—How Carried Out. 3. The work outlined in this act relating to horticulture, soil and crop improvement, dairy interests, live stock, animal diseases and poultry, shall be carried out by the said agricultural experiment station of Purdue University along lines to be agreed upon by the director of the said experiment station of said university, and an advisory committee of five persons, one person to be appointed by each of the following named agriculture organizations of the State of Indiana—the State corn growers' association, the state dairymen's association, the state live stock association, the state horticultural society, and the state poultry fanciers' association. (§6866, as amended, 1909, p. 403.)

[Joint Resolution Approved March 8, 1915.]

797. Preamble. *Whereas*, By an act of congress entitled "An act to provide for co-operative agricultural extension work between the agricultural colleges in the several states receiving benefits of an act of congress approved July 2, 1862, and of acts supplemental thereto, and the United States department of agriculture," approved May 8, 1914, certain moneys were provided for the purpose of "diffusing among the people of the various states useful and practical information on the subjects relating to agriculture and home economics, and to encourage the application of the same" through the agency of the agricultural colleges in co-operation with the United States department of agriculture, on conditions, which conditions are as follows:

"The appropriation shall be paid annually in the manner hereinafter provided, to each state which shall by action of its legislature assent to the provisions of this act; *Provided*, That payment of such instalments of the appropriation hereinbefore made as shall become due to any state before the adjournment of the regular session of the legislature meeting next after the passage of this act, may in the absence of prior legislative assent be made upon the assent of the Governor thereof duly certified to the secretary of the treasury," and

Provided, further, "That the sums provided for extension work shall be paid in semi-annual payments on the first day of January and July of each

year by the secretary of the treasury upon the warrant of the secretary of agriculture, out of the appropriation of the United States, to the treasurer or other officer of the state duly authorized by the laws of the state to raise the same," and

Whereas, the Governor of the State of Indiana did, on June 25, 1914, provisionally accept such grant for and on behalf of Purdue University for the agricultural extension department established in connection therewith by an act of legislature approved February 27, 1911, and did designate the treasurer of Purdue University as the officer duly authorized to receive the same, therefore:

798. Purdue University—Government Grant. 1. That such grant is hereby accepted for and on behalf of Purdue University, and the treasurer of Purdue University is designated as the officer to receive the same, and the legislative assent of Indiana is hereby given to the purpose of said grant.

[Acts 1917, p. 53. Approved February 23, 1917.]

799. Donations to State Educational, Charitable or Benevolent Institutions. 1. That any state educational institution and any state charitable or benevolent institution or the State of Indiana itself may receive gifts, bequests and devises of real or personal property, or both, for the aid or maintenance of any such institution, or may receive gifts for state parks or other state purposes, and may agree to return to the donor or to any person named by him therein, in being, an annuity under the provisions and safeguards hereinafter provided.

800. Annuity Provisions. 2. When the gift is for the purpose of providing an annuity, the same may be accepted by any such institution or by the state itself upon condition that the institution or the state, as the case may be, shall pay to the donor, for the life of the donor, or for a term of years not beyond the lifetime of the donor, as may be agreed, or shall pay to any person or persons named by the donor, in being at the time of the gift, for his or her life, or for a term of years not beyond the lifetime of the donor as may be agreed, an annuity on the value of the property at the time the gift is made, as hereinafter provided, but such annuity shall in no case exceed the actual income from the property donated.

801. Appraisers—Approval of Governor. 3. The value of the property comprised in the gift shall be determined by three (3) disinterested appraisers appointed by the Governor of the state, and no gift shall be accepted by any institution named in section one (1) or by the state itself unless it be approved by the Governor.

802. Payment of Annuities may be Secured. 4. For the purpose of securing the payment of annuities, the property comprised in the gift may be pledged, by way of mortgage or otherwise, to the annuitant or annuitants for the full period of the life of the annuity or annuities, but the property pledged shall be the sole guarantee and the state shall not be obligated in any manner by such mortgage or other obligation.

803. Annuities not Taxable. 5. All annuities provided for herein shall be free of all taxation for any or all purposes within the State of Indiana.

804. Institutions Restricted. 6. No institution shall be the recipient of a gift whether on the payment of an annuity or otherwise, that shall pledge such institution to engage in any course of instruction, or perform any acts of work, other than such institution may have been authorized theretofore by law to engage in or perform.

805. Money Held in Trust by State. 7. All gifts of money, and all money realized from real and personal property, made under the provisions of this act, to endow permanently any of said institutions mentioned in the first section hereof, or to endow permanently any chair of learning or department in any such institution, shall be taken in charge by the State of Indiana, as a trust, and managed in all respects the same as the common school fund of the state is managed, and the proceeds arising therefrom shall be paid to the institution thus endowed for the purposes provided by the terms of such gift.

806. Gifts Legalized. 8. All gifts heretofore received by any of the institutions named in section one (1) of this act are hereby legalized in accordance with the terms of this act.

CHAPTER XXX.

Township Advisory Board.

Sec.
807. Township advisory board—Term—Vacancies—Duties.
808. Taxpayers may attend.
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810. Township trustees—Estimate of expenditures—Townships classified.
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813. Financial record.
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818. Appointment of first members of board.

[Law without signature of Governor. Acts 1917, p. 426.]

807. Township Advisory Board—Term—Vacancies—Duties. 1. At the time of electing township trustees the voters of the several townships shall elect an advisory board, consisting of three (3) resident freeholders and qualified voters of the township. The members of such board shall subscribe and file with the trustee an oath to faithfully and honestly discharge their duties as prescribed by law. Their terms of office shall be for two (2) years from the day following their first election and until their successors are elected and qualified, and the term of office shall thereafter be for the term of four (4) years from the day following their election and until their successors are elected and qualified. If a vacancy occurs in said board it shall be filled by the remaining members of the board for the unexpired term, provided that where two (2) or more vacancies exist at any one time, the board of commissioners of the county shall upon the petition of any taxpayer of such township fill such existing vacancies for the unexpired term or terms by appointment thereto of one or more resident freeholders and qualified voters of the township. They shall meet annually on the first Tuesday of September, at a convenient place in the township, notice of which shall be given as hereinafter provided in section three (3). At such annual meeting the members of such board shall elect one of their members chairman for that year. Two (2) members shall constitute a quorum. At such meeting the board shall consider the various estimates of township expenditures proposed by the township trustee, and shall have power to concur in such estimates, or in any part thereof, or to reject any proposed item, in whole or in part. Any existing indebtedness need not be paid until due. And the advisory board at the first annual meeting, may apportion the payment of any existing indebtedness other than to the county or for current expenses for a named term not exceeding five (5) years. When they shall have determined upon the estimates and amounts for which taxes should be levied upon the property and polls within said township for the ensuing year, they shall then determine and fix the rates of taxation upon such property and polls as to the estimated purposes severally. The rates so determined by such board, they shall then certify to the county auditor, who shall place the same upon the tax dupli-

cate, and the same shall be collected and enforced as prescribed by law. The rates so prescribed shall be deemed a levy and lien upon the property of such township from and after the first day in April of such year, and such levy shall be deemed an appropriation for the specific purposes for which such estimates are fixed. Such board shall keep a record of their proceedings in a separate book, to be furnished by such trustee, and kept as a part of the record of the township, to be known as the record of the advisory board of such township, and to remain in the custody of the chairman of such board. Said board shall elect one of its members secretary for said board, who shall record the proceedings thereof at any meeting in full, under the direction of the board, which shall be signed before the board adjourns. Any meeting may adjourn from day to day till the business is completed.

808. Taxpayers May Attend. 2. At any session of such board, any taxpayer of the township may appear and be heard as to the advisability of any estimate or estimates of expenditures, or any proposed levy of taxes, or the approval of the township trustee's report or any other matter being considered by the board. (§9591.)

809. Annual Meeting—Expenditures and Tax Levy. 3. The trustee shall at least thirty (30) days, and not more than forty (40) days, before the annual meeting of the advisory board, in each year, post at or near the door of all postoffices in the township, a statement of the several estimates and amounts of the proposed annual expenditures, and the rates of taxation proposed for levy against the property within such township, for the several funds to be expended for his township during the calendar year, and also copies of such notice shall be published one time in the issue printed in the first week of August of each year in the two leading newspapers published in the county, representing the two political parties casting the highest number of votes in such county at the last preceding general election, and one publication in a newspaper in the township interested, if there be a paper published therein. The cost of such publication shall not exceed two dollars in any one year to any one paper, and the cost of necessary copies for posting and delivery to the board shall not exceed one dollar and fifty cents in any one year. And he shall furnish within like periods to each of the members of the advisory board a statement of such estimates and amounts. Such statement shall contain a notice of the place of meeting of the advisory board, and shall be substantially in the following form:

EXPENDITURES AND TAX LEVIES FOR THE YEAR.

The trustee of ——— township, ——— county, proposes for the yearly expenditures and tax levies by the advisory board at its annual meeting, to be held at the schoolhouse of school district No. ——, the following estimates and amounts for said year:

1. Township expenditures, $———, and township tax, ——— cents on the hundred dollars.
2. Local tuition expenditures, $———, and tax, ——— cents on the hundred dollars.

3. Special school tax expenditures, $———, and tax, ——— cents on the hundred dollars.
4. Road tax expenditures, $———, and tax, ——— cents on the hundred dollars.
5. Additional road tax expenditures, $———, and tax, ——— cents on the hundred dollars.
6. Library expenditures, $———, and tax, ——— cents on the hundred dollars.
7. Poor expenditures for preceding year, $———, and tax, ——— cents on the hundred dollars.
8. Other items, if any, expenditures, $———, and tax, ——— cents on the hundred dollars..

Total expenditures, $———, and total tax, ——— cents on the hundred dollars.

(Dated)——— (Signed)———, Trustee.

The trustee shall procure and lay before the advisory board at the annual meeting thereof, the assessed valuation of the taxable property of the township for such year, and also the number of taxable poles in such township. (§9592.)

[Acts 1915, p. 131.]

810. Township Trustees—Estimate of Expenditures—Townships Classified. 4. The trustee shall attend all of the meetings of the advisory board, and at the annual meeting thereof, after the board shall have organized, he shall present a detailed and itemized statement in writing of his estimated expenditures for which appropriations are asked, specifying the number of teachers necessarily employed, their salaries respectively, the number of days deemed necessary for the discharge of the duties of his office, and the days of the week or month when they can be most advantageously performed, the extent of needed bridge and highway repairs, an accurate, itemized list of all the property and supplies on hand, whether in use or in store, for road, school and other purposes and estimated value thereof, the items of school supplies necessary for each school, the condition of pauperism in the township, including the names of such persons as have received public aid, since the taking effect of this act, and since the last annual meeting of the board, with the respective amount received by each person. And also the items, severally, to be charged against the township funds, including salaries, clerk hire when same is necessary, stationery, printing and records, and supplies to be furnished to the justices of the township, the trustee's compensation, and his actual expense to be incurred in the transacting of township business, and his office rent, where an office is authorized by such advisory board, and any other items of expense payable from said fund; and he shall submit to such inquiries concerning the expenditures of his office as the board, or the taxpayers present, may deem proper to make. The advisory board shall have full power to require any estimate, not sufficiently itemized, to be so itemized by the trustee, and to appropriate for any purpose a sum not greater than that estimated in the item therefor, except by the unanimous vote of the board, and not otherwise, an appropriation may be made for an item

not contained in any estimate, or for a greater amount than that named in any item of an estimate: *Provided further*, That all items of expense herein enumerated shall be paid from the proper funds of the township: *And provided*, That in townships containing a population of less than 5,000 inhabitants tants, no clerk hire shall be allowed or paid; that in such townships the advisory board may authorize the trustee to pay as office rent a sum not to exceed $60.00 per annum, and such trustee may, if authorized by the board, keep his office in his residence or his own property, and pay to himself the rent therefor; that in such townships, the advisory board may authorize the trustee to pay his actual expenses in transacting his official business, including stationery, printing and records, and may authorize the trustee to use his own property, as means of conveyance in transacting such business, but the total expenses to be so allowed and paid, other than office rent, shall not exceed $100.00 per year in such townships; that in townships containing a population of 5,000 and less than 10,000 inhabitants, the advisory board may authorize the trustee to pay, if the board deems necessary and proper, for clerk hire a sum not to exceed $100.00 per year; for office rent a sum not to exceed $90.00 per year; for actual expenses in transacting the business of the office, including stationery, printing and records, and may authorize the trustee to use his own property as means of conveyance in transacting such business, but the total expenses to be so allowed and paid, other than office rent shall not exceed $200.00 per year; *and Provided*, That in townships containing 10,000 and less than 15,000 inhabitants, the advisory board may authorize the trustee to pay, if the board deems necessary and proper, for clerk hire a sum not to exceed $250.00 per year; for office rent a sum not to exceed $120.00 per year; for actual expenses in transacting the business of the office, including stationery, printing and records, a sum not to exceed $250.00 per year: *And provided*, That in townships containing 15,000 and less than 20,000 inhabitants, the advisory board may authorize the trustee to pay, if the board deems necessary and proper, for clerk hire a sum not to exceed $450.00 per year; for office rent a sum not to exceed $120.00 per year; for actual expenses in transacting the business of the office, including stationery, printing and records, a sum not to exceed $300.00 per year, *and Provided*, That in townships containing 20,000 and less than 30,000 inhabitants, the advisory board may authorize the trustee to pay, if the board deems necessary and proper, for clerk hire a sum not to exceed $600.00 per year; for office rent a sum not to exceed $180.00 per year; for actual expenses in transacting the business of the office, including stationery, printing and records, a sum not to exceed $350 per year *and Provided*, That in townships containing 30,000 and less than 40,000 inhabitants, the advisory board may authorize the trustee to pay, if the board deems necessary and proper, for clerk hire a sum not to exceed $900.00 per year; for office rent a sum not to exceed $240.00 per year; for actual expenses in transacting the business of the office, including stationery, printing and records, a sum not to exceed $500.00 per year, *and Provided*, That in townships containing 40,000 and less than 100,000 inhabitants, the advisory board may authorize the trustee to pay, if the board deems necessary and proper, for clerk hire a sum not to exceed $1,200,00 per year; for office rent a sum not to exceed $300.00 per year; for actual expenses in transacting the business of the office, including stationery, printing and records, a sum not to exceed $600.00 per year; the inhabitants of all such townships

to be determined by the last preceding United Stated census. All Appropriations for clerk hire, for office rent, and for actual expenses in transacting the business of the office of trustee, shall be made at the annual September meeting and at no other time. In any case, before the trustee shall draw his warrant for any money to be paid out by reason of the items of expense, including clerk hire and office rent, authorized by this act, he shall require to be filed with him, as trustee, an itemized voucher of such expense, clerk hire or office rent, properly subscribed and sworn to.

No trustee shall have credit for any money paid by him, except he shall show a receipt therefor for each item thereof from the person to whom such payment was made.

2. This act shall in no way affect any pending litigation.

811. Compensation of Board, if Desired. 5. In making the levies for the township fund, if said board shall desire compensation for their services to the township, they may add a sum not exceeding five dollars ($5.00) for the service of each member during the year for which the levy is made. payable out of such fund. (§9594.)

[Acts 1913, p. 276. Approved March 6, 1913.]

812. Township—Emergency Expenditures—Called Meeting Advisory Board. 6. Upon a special call of the township trustee, or the chairman of the advisory board or a majority of the members of said board, given in writing to each member thereof, stating the time, place and purpose of the meeting, said board may, if a quorum be present, by consent of a majority of all the members present, determine whether an emergency exists for the expenditure of any sums not included in the existing estimates and levy. In the event that such an emergency is found to exist said board may authorize by special order entered and signed upon the record, the trustee to borrow a sum of money to be named sufficient to meet such emergency; and at the next annual session of the board a levy shall be made to the credit of the fund for which such expenditure is made to cover and pay the debt so created: *Provided, however*, That if at any annual or special meeting of said board it shall be found indispensably necessary to provide for the construction of a school building, the cost of which building or the proportionate cost thereof if the same be a joint graded high school-building will be in excess of the sum available therefor out of any annual levy, then in that event, such board may authorize such trustee to issue township warrants or bonds to pay for such building, or the proportionate cost thereof, such warrants or bonds to run for a period of not exceeding fifteen (15) years; and to bear not exceeding six per cent per annum, and to be sold for not less than par; the township trustee, before issuing such warrants or bonds, shall advertise that bonds are to be sold in not less than one issue a week for three weeks, in one paper of general circulation in the county and one paper of general circulation in the state capital, setting forth the amount of bonds offered, the denomination, the period to run, rate of interest and the date, place and hour of selling. The township advisory board shall attend the sale of bonds and shall concur therein before such bonds are sold. The board shall annually levy sufficient taxes to pay at least one-fifteenth of such warrants or bonds, with interest, each year, and the trustee shall apply such an-

nual tax to the payment of such warrants or bonds each year. In no event shall a debt of the township be created except by the advisory board of such township, and in the manner herein specified, and any payment of any debt not so authorized from the public funds of such township shall be recoverable upon the bond of the trustee in a suit, which it is hereby made the duty of said board to institute and prosecute in the name of the state, for the use of said township. And said board is hereby empowered to appropriate, and the township trustee shall pay out of the township funds a reasonable sum for attorney's fees for such purpose. And if the board, on the written demand of any taxpayer, fails for thirty (30) days to bring suit, then such or any other taxpayer may bring the same, in the name of the state, for the use of the township: *Provided, however*, Nothing contained herein shall affect any pending litigation. (R. S. 1914, §9595.)

813. Financial Record. 7. Each township trustee in this state shall procure and keep a book, to be known as the financial record of the township, in which the trustee shall keep an itemized and accurate account of the financial affairs thereof, charging himself with each sum of money when and as received, from every source, giving the date, from whom received, and on account of what fund it is credited. He shall likewise credit himself with all moneys when and as paid out, showing when, on what account, and to whom and out of what fund paid. It shall be the duty of the auditor of the State of Indiana to frame and adopt a form of such book, to be used by all the township trustees throughout the state. Such book shall be a public record: *Provided, however*, That the auditor shall not adopt any patented or copyrighted form and nothing herein shall authorize him to contract with any person, partnership, or corporation, for the publishing of such forms. The act entitled "An act prescribing certain duties of township trustees, providing for the appointment and compensation of an auditing board, prescribing its duties and declaring an emergency," approved March 8, 1897, is hereby repealed. (§6596.)

814. Annual Settlement with the Board. 8. The trustee shall present to the advisory board, at a meeting of said board to be held annually on the first Tuesday after the first Monday of January of each year, his annual and complete report of all the receipts and expenditures of his office for the preceding calendar year, with the balances to the credit of each fund under his charge; and if he has any money from any source in his hands or under his control which is not included in any particular fund, as shown by said report, then he must state all the facts concerning such moneys in his report. Each item of expenditure shall be accompanied by the verified receipt of the person to whom the sum evidenced thereby has been paid, stating particularly for what article or service the payment has been made; that the sum receipted for is the exact sum received, and that no part thereof has been retained by, or returned to or has been agreed, directly or indirectly, to be returned to, the trustee or to any other person, and the trustee is empowered to administer oaths to the persons giving such receipts. The report so presented shall be verified by the oath of the trustee, showing that the sums with which he is charged in such report are all the sums received by him, and that the various items of expenditure credited have been fully paid in

the sums stated, and without express or implied agreement that any portion thereof shall be retained by or repaid by him or to any other person. And the trustee shall subscribe and take an oath that he has received no money or article of value in consideration of any contract made by him as such trustee. The board shall consider and approve in whole or in part, the report of the trustee so made, and any sum appropriated and remaining in the hands of the trustee, unexpended and for which no liability exists against the township, shall be deemed and credited in favor of the fund for which it was appropriated, and shall be considered in the ensuing levy. The expenditure of any fund, in whole or in part, to any account for which it was not appropriated by said board, shall be deemed by the board of [as] a balance of such fund unexpended and in the hands of the trustee, for which he shall be liable upon his bond. Any member of the board may administer oaths, and said board may send for persons, books and papers, if necessary, in such examination of said report, and when the examination is closed they shall enter of record their action thereon, specifically stating such parts and items as may be altered or disallowed. Such annual report shall remain under the control of such board, the custody thereof to be held by the chairman, and at any time shall be subject to inspection by any taxpayers of the township. On the said annual settlement being made, the trustee shall within ten (10) days thereafter, file a copy of such report as adopted by the board, with the accompanying vouchers in the office of the county auditor, to be preserved; and upon failure the trustee shall forfeit five (5) dollars per day each day until so filed, to be collected by suit of the board for the benefit of the township. In case the term of the trustee shall expire, or he shall resign or die, then he, or his administrator, shall at once make final settlement with the board. Said auditor shall examine such copy of said report, and within ten (10) days after the filing of same n his office, shall report to the advisory board of such township the result of such examination, including his finding as to the accuracy of such report. Said trustee shall cause to be published, by one insertion in two leading newspapers of his county, each representing one of the two political parties casting the highest number of votes at the last preceding general election, an abstract of his said report, which abstract shall contain the total of receipts and expenditures and balances or deficits in each fund, also the rate of tax levy made for each of said funds for the ensuing year. (§9597, as amended 1901, p. 415.)

815. New Schoolhouse—School Supplies. 9. If a trustee finds it necessary to erect a new schoolhouse, he shall procure suitable specifications therefor, to be used by the bidders in bidding and in the construction of such house. If he desires to purchase any school furniture, fixtures, maps, charts, or other school supplies, excepting fuel and literary periodicals in such amounts as may be authorized by the advisory board, in any year, he shall make an estimate of the kinds and amounts, itemized particularly, to be used by bidders therefor. If it is necessary to make repairs on or about the school houses other than current or incidental repairs, he shall likewise make an itemized statement of the nature and character of the work, to be made for the use of bidders. He shall, in like manner, make a schedule of such work as may be necessary in the repair or construction of bridges in his township for any one year. All contracts shall be let, after notice given, by posting

for three (3) weeks in five (5) of the most public places in the township, and also at or near the door of each postoffice therein, stating briefly the buildings, repairs or supplies sought to be let, and when and where bids will be received and opened therefor; and if the contemplated expenditures in any one class shall be five hundred dollars ($500) or more, he shall post notices as aforesaid, and also publish notice thereof for one (1) time in the two leading newspapers published in the county representing the two political parties casting the highest number of votes in such county at the last preceding general election: *Provided*, That one of such publications shall be made in a newspaper published in the township interested, if there be a newspaper published therein. The advisory board shall attend the letting. At the letting, all the work or supplies in any one class shall be included and let in a single contract. All bids shall be in writing and be opened and read publicly at the time and place fixed in the notice. The trustee may take time to examine and satisfy himself as to which is the lowest and best bid and shall advise with the advisory board thereon: and said board is hereby empowered to reject any and all bids. The trustee shall indorse on the bids whether rejected or accepted and preserve the same. When a bid is accepted, a proper contract shall then be reduced to writing for such building, repairs or supplies, as the case may be, and be signed by the suceessful bidder and the trustee, who shall require the bidder to give bond with security, to be approved by him, for the faithful execution of such contract. (§9598.)

816. Trustees' Pay. 10. The township trustees serving under this act shall receive for their services the compensation now or hereafter fixed by law: *Provided*, That where a per diem is allowed by law the number of days' service for which the trustee is allowed shall be fixed and allowed by the advisory board at their annual meeting, and this shall constitute the entire compensation of such trustee for all the duties of his office. (§9600.)

817. Contracts Void. 11. All contracts made in violation of this act shall be null and void. (§9601.)

1. NOTE. This section modifies all the decisions rendered by the courts concerning contracts of township trustees. It also repeals the law requiring the trustee to petition the board of county commissioners for leave to contract debts on behalf of the township. Contracts of townships must now be executed pursuant to the provisions of this act; and if not, they are void. Even though a township receives articles purchased by its trustee, without pursuing the provisions of this statute, it will not be liable for the price agreed upon nor for their value.—Peck-Williamson, etc., Co. v. Steen School Tp., 30 App. 637; 66 N. E. 909; and see Moss v. Sugar Ridge Tp., 67 N. E. 460.

818. Appointment of First Members of Board. 12. At the term of the circuit court to be held in the several counties of this state next after the taking effect of this act, such court shall appoint three (3) freeholders and qualified voters residing in each township, not more than two of whom shall belong to the same political party, who shall constitute the advisory board of such township until their successors are elected and qualified; on failure of such court so to do, the governor of the state shall make said appointments. And all laws and parts of laws inconsistent with the provisions of this act are hereby repealed. (§9602.)

CHAPTER XXXI.

State Library.

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[Acts 1903, p. 152. Approved February 28, 1903.]

819. Management. 1. The management and control of the state library shall be vested in the state board of education, which shall constitute for library purposes the state library board. (§9289.)

820. Election of Librarian—Term. 2. The state library board shall, before the first day of April, 1905, elect a state librarian, whose term of office shall begin April 1, 1905, and who shall serve until his successor is elected by the said state library board. (§9290.)

821. Term of Office—Bond. 3. The term of office of the state librarian shall be two years and he shall appoint his assistants by and with the advice and approval of the state library board, and he shall, before entering upon his duties, give bond and security to the acceptance of the secretary of state, in the penal sum of two thousand dollars, which bond shall be filed with the secretary of state. (§9291.)

822. Library, When To Be Kept Open. 4. The library shall be kept open from 8 a. m. until 5 p. m. every day, except Sundays, legal holidays and such other days as the Governor shall request all state offices to be closed. (§9292.)

823. Preservation of State Documents. 5. The librarian shall select from the journals and laws, whenever published, five copies to be kept permanently for the library, and all other journals and reports shall be preserved for exchange purposes for the benefit of the library. (§9293.)

824. Legislative Papers, Preservation. 6. The librarian shall receive and preserve in the most convenient and permanent order all legislative papers delivered to him at the close of each session by the secretary of the senate and the clerk of the house. (§9294.)

825. Exchanges. 7. The librarian may, with the consent of the state library board, exchange for the benefit of the library any duplicate, or any book not wanted in the library, or he may sell such duplicated or other books and shall turn all money thus received into the state treasury, taking the treasurer's receipt and filing the same in the office of auditor of state, who shall

charge the same to the account of the treasurer of state for the use of the library. The librarian shall keep an accurate account of all such transactions, making the same a part of his next succeeding biennial report to the legislature, as hereinafter provided for. (§9295.)

826. Misappropriation of Books. 8. If the librarian shall appropriate to his own use any book or books belonging to the state library or any proceeds of any exchange or sale of books, or knowingly make false reports thereof, he shall be deemed guilty of a misdemeanor and shall be fined not less than five nor more than one thousand dollars and shall forfeit and be deprived of his office. (§9296.)

827. Loan of Books. 9. Such books belonging to the state library, other than reference books, as could be readily replaced, in case of loss, may be loaned to any citizen of the state, who shall place such guarantee with the state librarian, for the safe return of the same, as the state library board may demand, and who shall pay the cost of transportation of the book or books to and from the borrower: *Provided*, That no book, that could not be readily be replaced in case of loss, shall be removed from the state library except by state officials, and by them only in pursuit of their official duty. (§9297.)

828. Rules and Regulations. 10. The library board shall formulate rules and regulations for the care and management of the library: *Provided*, That no rule or regulation formulated by said board shall in any way conflict with any of the provisions of this act. (§9298.)

829. Salaries—Reference Librarian—Cataloguer—Stenographer. 11. The salary of the state librarian shall be eighteen hundred dollars per year. He shall appoint a reference librarian, whose salary shall be eleven hundred dollars per year, and a cataloguer, whose salary shall be eleven hundred dollars per year, and an assistant cataloguer and stenographer, whose salary shall be nine hundred dollars per year, and a messenger, whose salary shall be seven hundred and twenty dollars per year. (§9299.)

830. Report of Receipts and Expenditures. 12. The librarian shall report at each session of the legislature as to the condition and needs of the library and the receipts and expenditures of money for the two fiscal years immediately preceding the date of such report. (§9300.)

831. Removal of Librarian or Assistants. 13. The state library board shall have power to remove for cause at any time the state librarian or any assistant or any employe of the state library. (§9301.)

832. Violation of This Act, Penalty. 14. Any person guilty of a violation of any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined in the sum of twenty-five dollars. (§9302.)

[Acts 1915, p. 206.]

833. State Librarian—Public Documents. 1. That the board of commissioners of public printing, binding and stationery shall cause to have delivered to the state librarian two hundred and fifty (250) copies of each and every report, document, bulletin and other publication published at the ex-

pense of the state, except session acts of the General Assembly and supreme and appellate court reports.

834. Distribution of Publications. 2. The said state librarian shall distribute all publications received from the said commissioners of public printing, binding and stationery, except such as are needed for use in the state library, as follows: One copy of each to each state or territorial library in the United States and to such other libraries as the librarian has or shall arrange with for exchange of publications; one copy of each to each university, college or normal school library within the State of Indiana; one copy of each to each public library within the State of Indiana: *Providing*, That not less than one copy of each such state publication shall be retained in the state library. (§9305.)

CHAPTER XXXII.

Free Libraries.

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[Acts 1901, p. 81. Approved March 4, 1901.]

835. City and Town Tax for Library—Subscription. 1. The common council of any city, or the town board of any incorporated town within this state desiring to establish, increase and maintain a public library in such city or town, open to and for the use and benefit of all the inhabitants thereof may levy a tax annually of not to exceed one mill on each dollar of all the taxable property assessed for taxation in such city or town, as shown by the tax duplicate for the year immediately preceding the fixing of such levy, which tax shall be placed on the tax duplicate of such city or town and collected, in the same manner as other taxes are levied and collected and such levy shall be certified to the clerk of the circuit court. If the common

council of such city, as the town board of such incorporated town do not make such levy they shall do so at the next ensuing levy, and annually thereafter, after taxpayers of such city or town raise by popular subscription, for each of the two years immediately following the date of the completion of such subscription, a sum of money equal to the amount that would be derived from a tax levy of two-tenths of a mill on each dollar of the taxable property assessed for taxation in such city or town as shown by the tax duplicate immediately preceding the completion of such subscription: *Provided*, That not more than two per cent of the entire amount necessary to be subscribed shall be subscribed by any one person, firm or corporation of such city or incorporated town. The amount of money so subscribed, as herein provided, for public library purposes, shall be made to fall due and be payable in eight equal quarterly instalments, the first instalment shall become due and be payable on the first Monday of the second month following the date of completion and filing of such susbcription, as hereinafter provided, and one instalment shall become due and be payable on the first Monday of each third month thereafter, till all of such subscription is paid. The subscriptions shall be collected by the public library board, hereby created, as hereinafter provided. (§4916, as amended, 1903, p. 301.)

836. Subscriptions filed with Clerk of Circuit Court. 2. The subscription list for said money shall be filed with the clerk of the circuit court of the county in which such city or incorporated town is located. Said clerk of the court immediately thereafter shall notify the judge of the circuit court of said county that such subscription has been filed, and he shall likewise notify the common council or town board and the board of school trustees of such city or town proposing to establish a public library, that said subscription has been filed. The original subscription list shall be preserved by the clerk of the circuit court and by him placed in the hands of the public library board, when the board shall have been appointed as hereinafter provided. (§4917.)

[Law without signature of Governor. Acts 1917, p. 108.]

837. Public Libraries, Town and Township—Special Tax—Board. 3. Within ten (10) days after said judge of the circuit court shall have been notified, as above provided, that such subscription list has been filed with the clerk of the circuit court, if one has been filed to secure the levying of such tax, or that the common council has certified to such clerk that the levy as provided herein has been made, it shall be the duty of said judge to examine such subscription list and if it be found that an amount of solvent subscription has been made equal to the amount required by section one (1) of this act, then he shall order a copy of such subscription list spread upon the records of said court, and he shall appoint three (3) persons, residents of such city or town, as members of such public library board, one of whom he shall appoint for one (1) year, one for two (2) years and one for three (3) years, from the date of their appointment, and after the first appointment all appointments made by the judge of the court shall be for a period of two (2) years; and all appointments so made by the judge of the court shall be entered in the order books of said court. If the township advisory board of any township shall levy and collect a tax for library purposes the total amount of which tax

shall be greater than the amount of tax collected by the town or city for said library purposes, and pay the same over to the treasurer of the city or town where a library is located and otherwise avail themselves of the provisions of this act as hereinafter provided, then and in that event the judge, in appointing the members of such public library board, at any time thereafter, may appoint persons who are residents of such city or town or of such township outside of such city or town. Within ten (10) days after the common council or the town board and the board of school trustees shall have been notified, as in section two (2) of this act, each body shall appoint two (2) persons also residents of such city or town, not otherwise appointed as members of such board, who shall become members of such public library board. The members so appointed by the common council or town board for the first appointment under this act shall serve for a period of one (1) year, and after the first appointment all appointments made by the common council or town boards shall be for a period of two (2) years. The board of school trustees shall appoint its members for a term of two (2) years, who may be from their own board. If the township advisory board of any township shall levy and collect for library purposes five-tenths (5-10) of a mill on each dollar of all the taxable property assessed for taxation in said township, as shown by the tax duplicate for the year immediately preceding the fixing of such levy, exclusive of the property of such city or town already taxed for said library, and pay the same over to the treasurer of such city or town where such library is located, then in such case the township trustee shall, ex-officio, be a member of such public library board, and such township trustee shall appoint one (1) person, a resident of said township, not otherwise appointed, as a member of said public library board, who shall become a member of such public library board, and such appointment by such township trustee shall be for a period of two (2) years, and all members of such public library board appointed as herein provided, shall serve until their successors are appointed and qualified: *Provided*, That women may be eligible to appointment as members of such library board, and not less than three (3) of the members appointed shall be women. The judge, common council or town board, the board of school trustees, the township trustees, in making the appointments, shall select persons of well known probity, integrity, business ability and experience, and who are fitted for the character of the work they are to perform, and who shall have resided for a period of not less than one (1) year, immediately preceding their appointment, in the city or town for which they are appointed, in the case of members appointed by the common council or town board and school trustees, and in the township in the case of the member appointed by the township trustee as hereinbefore provided and in the city, town or township in the case of the members appointed by the judge, and who shall not be less than twenty-five (25) years of age at the time of appointment, and who shall serve without compensation for service. In case of vacancy on such board from any cause, it shall be the duty of said judge, common council or town board, board of school trustees and township trustees to fill such vacancy occurring in the membership appointed by each respectively.

838. Certificates of Appointment—Oath. 4. All appointments to membership on the public library board shall be evidenced by certificates of appointment, duly signed by the judge as to members appointed by him.

by the mayor or president of the town board, by the president of the board of school trustees, and township trustees, as to members respectively appointed by them, which certificates of appointment shall be handed to or mailed to the address of the appointee. Within ten days after receiving such certificate of appointment such appointee shall qualify by taking the oath of office before the clerk of the court, that such appointee will faithfully discharge the duties as a member of the public library board to the best of his ability, and shall file such certificate with the oath endorsed thereon, with the clerk of the circuit court of the county in which such library is to be established. (§4919, as amended 1903, p. 301.)

839. Organization. 5. Within five days after all the members of such board shall have been appointed and qualified, they shall meet and organize by electing one of their number president, one vice-president and one secretary, and shall select such committees or executive board as they may deem necessary to carry on the work of the board. (§4920.)

840. Subscriptions Collected—Buildings—Tax. 7. When such public library board shall have organized for the transaction of business, there shall be placed in its hands by the said clerk of the circuit court the original subscription list, if any has been made, for the procuring of the levy of the tax, as herein provided, and it shall be the duty of such library board to collect quarterly all money subscribed, as the same becomes due, as provided for in section 1 of this act, and pay the same over to the treasurer of such city or town, and to expend the same in the establishment, equipment, enlargement and management of a public library, in the manner as provided for in section 8, which shall be open to and for the use and benefit of all the inhabitants of the city or town in which the same is located, and such library board may use such sum for the purchase of a building site and the erection of a library building as the board may decide. It shall be the duty of such library board to determine the rate of taxation that shall be necessary to establish, increase, equip and maintain the public library and certify the same to the common council or town board and to the county auditor: *Provided*, That said levy shall not exceed one mill on each dollar of all the taxable property assessed for taxation in such city or town, as shown by the tax duplicate for the year immediately preceding the fixing of such levy. When the assessment for such public library purposes shall be certified to the common council or town board and the auditor, by the public library board, the same shall be placed upon the tax duplicate of such county and city or town and collected in like manner as other taxes are levied and collected. (§4922, as amended 1903, p. 301.)

841. Tax, how Used. 8. The tax so levied as provided for in sections 1 and 7 of this act shall be held and kept as a separate fund by the treasurer of such city or incorporated town for public library purposes, as herein provided, and he shall pay out the same for library purposes only upon the warrant of the president of the library board, countersigned by the secretary thereof. The treasurer of such city or town shall be liable on his official bond for the faithful performance of the duties imposed upon him by this act. (§4923.)

842. Use of Library—Certificates of Membership—Township May Use. 9. When a public library shall have been established in any city or incorporated town in this state under the provisions of this act, such library shall be open and free for the use and benefit of all the inhabitants of the township in which such library shall be located, provided the township advisory board of the township in which such library is located, shall levy and collect a tax of two-tenths of a mill on each dollar of all the taxable property assessed for taxation in said township, as shown by the tax duplicate for the year immediately preceding the fixing of such levy, exclusive of the property of such city or town already taxed for said library, and collect and pay the same over to the treasurer of such city or town where such library is located, to be held by such treasurer as a part of the public library fund. Said library shall remain open and free for the use and benefit of all the inhabitants of such township so long as said tax as herein provided and specified shall be levied, collected and paid over to the treasurer of such city or town for the use of said library board for the purpose herein named. When the public library of any city or town is not so open and free for the use and benefit of the inhabitants of any township, by reason of such township failing to levy and collect the tax herein required, the public library board may issue and sell certificates or library cards to any person or family resident in such township at such annual fee as may be deemed by them to be a fair compensation for such privilege, and such library cards shall give to the purchaser thereof the same rights and privileges as the inhabitants of the city or incorporated town. (§4924.)

843. Donation of Library. 10. If any city or incorporated town in this state where a library of the value of an amount equal to the amount of money that would be derived from a tax levy of three-tenths of a mill on each dollar of valuation of the taxable property within such city or town assessed for taxation, as is shown by the preceding tax duplicate of said city or town, is already established and maintained under the existing law of this state, and whenever the managing board of such library already so existing and maintained shall tender the ownership, custody and control of said library free of expense to such public library board for the uses and purpose of a public library as contemplated by this act, which tender of custody and control thereof shall be evidence by a certificate issued by the managing board thereof and filed in triplicate with the clerk of the circuit court of the county wherein said city or town is located, with the clerk of said city or town and the secretary of the board of school trustees in the manner and form as prescribed in the certificates of popular subscription contained in section 2 of this act, which certificate shall show the value of such library. A public library board shall be appointed as in the manner as set fourth in this act, except such board shall be appointed only when the common council or town board have decided by a majority vote of the members thereof to accept such library and to levy annually and collect a tax as other taxes are levied and collected, and not to exceed one mill on each dollar of valuation of taxable property of such city or town, as herein specified. Said council or town board shall certify its said decision of acceptance, attested by the clerk of said city or town, and the mayor of such city or president of such town board to the judge of the circuit court and the

secretary of said board of school trustees, whereupon said judge, city council or town board and board of school trustees shall proceed to appoint said public library board in the manner and form and to all intents and purposes as is done by the voluntary levy of such tax by the council or town board, or the popular subscription filed with the clerk of the court as hereinbefore provided. (As amended, 1903, p. 301; §4925.)

844. Removal of Member of Board. 11. The judge of the circuit court, the common council or town board and the board of school trustees may at any time, for cause shown, remove any member of such library board that may have been appointed by each, respectively, and fill the vacancy occasioned thereby as provided for in section 3 of this act. (§4926.)

845. Treasurer's Report. 12. The treasurer of such city or incorporated town, operating libraries under this act, shall make and file with the common council or the town board thereof, not later than the 15th day of January of each year, an itemized statement, under oath, of all the receipts and disbursements of such public library board for the year ending December 31 immediately preceding the making and filing of such report, and such report shall contain an itemized statement of the sources of all receipts, all disbursements made and the purpose for which the same were made, and such annual report shall be open to inspection of the citizens of such city or town, and also the township in which such city or town is located, providing the township has complied with the provisions of section 9 herein. (§4927.)

846. Repealing Section. 13. All laws and parts of laws in conflict with the provisions of this act are hereby repealed: *Provided*, That this act shall not interfere with the maintenance or management of any existing library already established and operating under the laws of this state. (§4928.)

[Acts 1911, p. 330. Approved March 4, 1911.]

847. Library—Extension of Privileges to townships—Tax. 1. Whenever the library board of any public library established in any city or incorporated town in this state shall file notice with the township advisory board of any township or townships, in which such city or town is located, or of any neighboring township in the same county, of consent of such library board to make such library open and free to all the people of said township or townships, on the condition of the said township or townships contributing to the support of such public library, such advisory board shall, upon petition of fifty taxpayers residing in any said township owning real estate in said township not already taxed for such library, make an annual appropriation and levy a tax of not less than five-tenths of a mill, and not more than one mill, on each dollar of taxable property in said township, exclusive of the property of such city or town already taxed for such library, and collect and pay the same over to the treasurer of such city or town where such library is located, to be held by such treasurer as part of library fund to be paid out only on warrants signed by the president and secretary of such library board: *Provided*, That the advisory board may levy such tax and make such appropriation without such petition: *Provided, further*, That in any township in this state where the public library in any city or

incorporated town is now open and free to the people of such township under any existing law of this state, and it appear by certificate of the library board of such public library, filed with such township advisory board, that at least one-tenth of the families of the taxpayers of such township, outside the limits of such city or town, are users of such library, such township advisory board shall make such appropriation and levy without such petition: *Provided further*, That where any township coming under the provisions of this act owns a township library and levies a library tax therefor, it shall be discretionary with the advisory board of such township whether such tax for such city or town library shall be levied. Said library shall remain open and free to the people of any such township or townships so long as the families of one-tenth of the taxpayers in said township or townships outside the limits of said city or town are found to be users of said library, or when less than one-tenth of the families of the taxpayers shall use the said library, the advisory board may, at its discretion, continue the tax herein specified. In case the said tax is not levied, or is discontinued, the library board may issue or sell a certificate or library card to any person resident in such township or townships at such annual fee as may be deemed by it to be fair compensation for such privileges, and such library card shall give the purchaser thereof the same right and privileges as the inhabitants of the city or incorporated town: *Provided*, That where any township coming under the provisions of this act owns a township library and levies a library tax therefor, it shall be discretionary with the advisory board of such township whether such tax for such city or town library shall be levied. (§4912b.)

848. Accounting—Report. 2. The library board of any public library receiving funds from such township tax levy, shall make and file with the advisory board or boards of such township or townships, not later than the 15th day of January each year, an itemized statement of all the receipts and disbursements of such public library board for the year ending December 31 immediately preceding the making and filing [of] such report. (§4912c.)

[Acts 1899, p. 134. Approved and in force February 24, 1899.]

849. Public Library Commission. 1. There is hereby created a public library commission, which shall be composed of three members, appointed by the Governor, who shall serve without compensation except as herein provided, each for the term of four years, except that one of the members first so appointed by the Governor shall be appointed for a term of two years only, and one for one year. (§6654.)

850. Office—Duties—Employes. 2. Said public library commission shall be assigned a permanent office room in the state house, with storage and shipping rooms in the basement of the same sufficient for the performance of its duties. It shall have the custody, control and management of the traveling libraries hereinafter provided for, shall purchase the books and collections of books therefor, and the equipment for the same; shall adopt rules and regulations for loaning such books and collections of books to library associations, and to the persons entitled to borrow the same, and shall provide for and require such security and guaranty for the safe return of such books or collections of books as may be deemed advisable; shall prepare lists of books suitable for public libraries and obtain prices for the same, and furnish such

list when required; shall furnish information or advice as to the organization, maintenance or administration of any library in the state. It shall also provide courses of library instruction, print lists and circulars of information and perform such other services in behalf of public libraries as it may consider for the best interests of the state. The said commission shall employ a secretary and such other assistants as shall be requisite for the performance of the services above specified, who shall serve under the direction of the commission. The commission shall each year obtain reports of all libraries in the state, and on October 31, 1906, the commission shall make a full report to the Governor as to the library conditions and progress in Indiana. This report when printed, shall be presented to the general assembly of the State of Indiana, and bi-ennially thereafter a like report shall be made. These reports shall be printed and bound by the state printing board, the same as other public documents, and shall be distributed by the public library commission. (§6655, as amended, 1905, p. 151.)

851. Purchase of Books—Appropriation. 3. There is hereby annually appropriated from any funds in the treasury not otherwise specifically appropriated the sum of seven thousand dollars ($7,000.00) to carry into effect the provisions of this act. All bills incurred by the commission or by its members and assistants under the law, when approved and certified by the president and secretary of the commission, shall be presented to the state auditor, who shall issue warrants therefor upon the state treasury, which shall be in lieu of all sums now provided by law for the carrying into effect the provisions of this act. (§6656, as amended, 1903, p. 179.)

852. Library Association. 4. Any five or more citizens may organize a library association, which on furnishing security satisfactory to said commission, shall be entitled to the use of the traveling libraries under the rules and regulations of said commission, and without charge further than all expenses of transportation of said libraries. Any local library, literary or other club, agricultural or other society, grange, college, seminary, university extension center, study circle or other association shall have the use of said traveling libraries on furnishing satisfactory security and complying with the rules and regulations as aforesaid. (§6657.)

1. Section 5 of this act has been repealed.

[Acts 1899, p. 134. Approved and in force February 24, 1899.]

853. Advice. 6. The librarian or trustee of any free public library may apply to said public library commission for advice as to all matters pertaining to the organization, maintenance or administration of their library; and said commission shall give such advice and personal attention as may be necessary. (§6659.)

854. Township Library. 7. The advisory board of any township desiring to establish and maintain a public library open to and for the free use of all the inhabitants thereof, may levy a tax annually of not more than one mill on each dollar of taxable property assessed for taxation in such township. If the advisory board do not make such levy, then, on the written petition of fifty legal voters of any township filed with the county clerk not less than fifteen days prior to a township election, the county board of election com-

missioners shall cause to be printed on the township ballots for such township the words: "For a township library tax." "Yes." "No." If in the election a majority of the votes cast on said question shall be in the affirmative, the township trustee shall thereafter levy annually a tax of not less than five-tenths of a mill nor more than one mill on each dollar of the property taxable in said township for the establishment and support of a township library free to all inhabitants of such township, which tax shall be levied, assessed, collected and paid as other township taxes are levied, assessed, collected and paid: *Provided*, That after such library has been established such tax levy shall be discontinued when, under the above provision, the question of discontinuing such levy shall have been submitted to a vote and the majority of the votes cast on said question shall be in the negative: *Provided further*, That if there be located in said township a public library open to the use of all the inhabitants thereof, then the proceeds of said tax shall be paid to said public library. *Be it further enacted*, that in any township outside of cities in which there has been or may hereafter be established by private donations a library of the value of ten thousand dollars or more, including the real estate and buildings used for such library for the use and benefit of all the inhabitants thereof, the township trustee of such township shall annually levy and collect not more than six cents on the hundred dollars, upon the taxable property within the limits of such township, which shall be paid to the trustees of such library, and be applied by them to the purchase of books for said library and to the cost of the maintenance thereof, and said trustee may, with the consent of the board of commissioners of the county, when it shall become necessary to purchase additional ground for the extension or protection of library buildings already established by such private donation, annually levy and collect not more than five cents on the hundred dollars upon all taxable property of said township for not more than three years successively, which shall be expended by said trustees in the purchase of said property and the erection and enlargement of library building thereon. (§6660, as amended, 1911, p. 73.)

855. Township Library Board—Townships Uniting. 8. In any township, where a free public library is established as above provided, there shall be established a township library board composed of the school township trustee and two residents of the township, to be appointed by the judge of the circuit court (one of whom shall be a woman). Of the first two members of such board so appointed one shall be appointed for a term of two years and one for four years, and thereafter the term of office shall be four years. Such library board shall have control of the purchase of books and the management of such library, and shall serve without compensation. Said library shall be the property of the school township, and the school township trustee shall be responsible for the safe preservation of the same. Said board shall be entitled to the possession and custody of any books remaining in the old township library in such township; and such board shall be empowered to receive donations, bequests and legacies for and on behalf of such library, and shall be entitled to receive from the public library commission and state librarian copies of all documents of this state available for distribution. Two or more adjacent townships may unite to establish and maintain a public library at the discretion of the advisory boards, and when two or more townships have

so united, the combined library boards appointed as herein specified or the board of the public library to which such money is paid as herein provided, shall control the library so established. (§6661, as amended, 1911, p. 73.)

8356. **Official Documents.** 9. The state librarian and the public library commission shall supply any library of this state with copies of official documents and publications of the state in his custody available for distribution within the state. (§6662.)

8357. **Member of Commission not to be Publisher.** 10. No member of the public library commission shall be in any way connected with the business of publishing or selling books. (§6663.)

[Approved March 6, 1913.]

8358. **Schools—Cities and Towns—Charge of Public Library.** 1. That in all the cities and incorporated towns of this state the board of school trustees, board of school commissioners, or whatever board may be established by law to take charge of the public or common schools of said city or incorporated town, shall have power, if in their discretion they deem it to the public interest, to establish a free public library in connection with the common schools of said city or incorporated town, and to make such rules and regulations for the care and protection and government of such library and for the care of the books provided therefor, and for the taking from and returning to said library of such books as the said board may deem necessary and proper; and to provide penalties for the violation thereof: *Provided*, That in any city or incorporated town where there is already established a library open to all the people, no tax shall be levied for the purpose herein named: *Provided, further*, That in all cities having according to the last preceding United States census not less than four thousand (4,000) nor more than four thousand five hundred (4,500) population, in which there is a public library open to all the people already established under the library laws of this state, supported in whole or in part by taxation, such board of school trustees, board of school commissioners, or other boards established by law to take charge of the public or common schools of said city or incorporated town, shall have the power, by and with the consent of the public library board in charge of such library already established, to take over, receive and take full charge of such established library, together with all the property, whether real, personal or mixed, and support, maintain and operate such library the same as if such library had been originally established by such board, and for the purpose of supporting, maintaining, increasing and operating such library, such board shall have the power and authority to receive gifts and donations, and shall have the same power of taxation as vested by law in the public library board from which such library was taken over and received. (§6642, amended, 1913.)

[Acts 1885, p. 120. Approved and in force April 2, 1885.]

859. **Libraries in Certain Cities.** 1. Wherever the board of directors of a library heretofore situate within the limits of any incorporated town may have filed the agreement and request with the board of trustees of said town, provided for in an act entitled "an act supplementary to an act entitled an act to establish public libraries," approved February 16, 1852, approved

March 8, 1883, and the board of trustees of such town may have levied a tax for the support of such library in pursuance of such request and agreement and in accordance with said act, and such town may afterward have become incorporated as a city, the common council of such city shall have all the powers to levy tax, and do all other things granted by said act above named to trustees of towns, and all the provisions of said act applicable to such library and its relations to the town before its incorporation as a city shall, after such incorporation, be applicable to such library, and its relations to such city.

[Acts 1889, p. 561. Approved March 6, 1899, and in force April 28, 1899.]

860. Tax to Maintain. 2. Such board shall also have power to levy a tax of not exceeding one mill on each dollar of taxable property assessed for taxation in such city in each year; which tax shall be placed on the tax duplicate of such city, and collected in the same manner as other taxes; and when said taxes are so collected, they shall be paid over to the said board for the support and maintenance of said public library. Such board shall have power and it shall be its duty to disburse said fund, and all revenues derived from gift or devise, in providing and fitting up suitable rooms for such library in the purchase, care and binding of books therefor, and in the payment of salaries to a librarian and necessary assitsants. (§6643.)

[Acts 1901, p. 14. Approved and in force February 13, 1901.]

861. Libraries in Cities of 3,500 to 4,000. 1. Cities having a population of thirty-five hundred by the census of 1900, and not more than four thousand, be, and they are hereby authorized to accept a tender of the custody and control of libraries established by library associations, incorporated or otherwise, provided such libraries contain at least three thousand volumes and to levy a tax of not more than five cents on the one hundred dollars of valuation of taxable property within such cities for the maintenance thereof. (§4884.)

862. Acceptance of Library. 2. Such acceptances shall be indicated by a resolution of the common council of such city, whereupon the mayor of said city shall appoint three reputable citizens of said city, not more than two of whom shall belong to the same political party, as a board of library directors, one member of said board to serve until the first day of June next succeeding, one member of said board to serve until one year thereafter the said first day of June next succeeding, and one member of said board to serve until two years thereafter, said first day of June next succeeding, and a member of said board shall be appointed by the mayor of said city each year whose term of office shall commence on the first day of June of that year. Such board shall organize on the first day of June of each year by electing one of its number as president, one of its number as secretary, and one of its number as treasurer, which treasurer shall give a bond with freehold sureties subject to the approval of the common council, to faithfully account for all funds which may come into his hands as such treasurer. They shall be sworn by the mayor to an honest and faithful discharge of their duties. The bond of the treasurer shall be made payable to the city. (§4885.)

863. Payment of Taxes—Control. 3. The treasurer of the board of library directors shall receive from the city treasurer all taxes collected for

librar purposes and pay out the same on the order of the board. The board of dir ctors shall have the custody and control of such library, subject to any r des adopted by, or orders of the common council, employ a librarian, if the members of said board deem it necessary, fix and pay the compensation of su h librarian, pay all necessary expenses of maintaining such library, and buy new books to add to such library as the library fund may justify, but in no ca e shall such board be authorized to incur any liabilities in excess of the avail ble funds on hand. (§4886.)

864. **Privileges of Library.** 4. Any resident of said city shall be entitled to the use of the books in such library free of charge upon compliance with such rules and regulations as may be prescribed by the board of directors, and the board of directors may prescribe such rules and regulations as they may see fit for the government and control of such libraries, if the said rules and regulations are not in conflict with any order of the common council of such city with reference to such library, and the government and control thereof. Such board of directors shall make a detailed report to the common council at the end of each annual term, accompanied by the report of the treasurer and showing all receipts and expenditures by him, and attested by the president and secretary. Such directors shall serve without compensation for services. (§4887.)

865. **Removal of Directors.** 5. The common council or the mayor, upon cause shown, may at any time remove any member of the board of library directors, and upon such removal or the creation of a vacancy otherwise the mayor shall fill the vacancy by appointment. (§4888.)

866. **Library Fund.** 6. The tax authorized by section 1 of this act shall be levied and collected as other taxes are levied and collected, but shall constitute a special fund to be known as the library fund. (§4889.)

[Acts 1885, p. 9. Approved and in force February 18, 1885.]

867. **Tax Levy for Library.** 1. Any township in which there has been or may hereafter be, established by private donations, a library of the value of one thousand dollars, or more, for the use and benefit of all the inhabitants thereof, the township trustee of such township shall annually levy and collect not more than one cent on the hundred dollars upon the taxable property within the limits of such township, which shall be paid to the trustees of such library, and be applied by them to the purchase of books for said library, and may, with the consent of the board of commissioners of the county when it shall become necessary to erect or enlarge a library building annually, for such period as may be necessary, levy and collect not more than five cents on the one hundred dollars upon the taxable property of said township, for not more than three years successively, which shall be expended by the trustees in the erection or enlargement of a library building.

[. This section is probably repealed by the following:

[Acts 1889, p. 228. Approved and in force March 2, 1899.]

868. **Office of Librarian Abolished.** 1. In any township in this state in which there has been or may hereafter be established by private donations a library of the value of one thousand dollars or more, for the use and benefit

of all the inhabitants thereof, the board of commissioners of the county in which such township is situated may, upon due proof thereof, by proper order entered upon its records, abolish the office of township librarian and require and order that the township library in the hands of the township trustee or the librarian thereof (including all the books, papers, records, furniture and paraphernalia pertaining thereto), be turned over and transferred to the trustees or other managing officers of such library established as aforesaid. (§4913.)

869. Library Discontinued. 2. That in the event said library association so established or to be established shall from any cause cease to exist or to perform its duties to the inhabitants of such township, then all its property of every kind shall be turned over to and become the property of such township. (§4914.)

870. Legalizing Section. 3. All library associations of this state which purport to have been organized and established pursuant to the provisions of the laws of this state, for the use and benefit of all the inhabitants of any township in this state, and to which private donations to the amount of one thousand dollars, or more have been subscribed, are hereby legalized, made valid and declared to be legal library corporations within the purview of this act, and all records, proceedings, subscriptions to and acts of the library associations are hereby ratified, legalized and made valid. (§4915.)

[Acts 1881, p. 47. Approved and in force March 7, 1881.]

871. Real Estate. 3. Any such city in which a free public library may be established in accordance with the terms of this act may acquire by purchase, or take and hold by gift, grant, or devise, any real estate necessary for, or which may be donated or devised for, the benefit of such library; and all revenues arising therefrom, and the proceeds of the same, if sold, shall be devoted to the use of said library. (§6645.)

[Acts 1885, p. 160. Approved and in force April 8, 1885.]

872. Real Estate for Libraries. 1. In any case in which the board of school trustees of any city of this state have purchased any real estate for the use of a public library of said city, under sections 4524, 4525 and 4526 [§§402, 403 and 404] of the revised statutes of 1881, and the revenue derived from taxation under said sections may have been or shall be insufficient to pay for such real estate, then said trustees be and they are hereby authorized to pay for the same out of any money in the treasury of such school city belonging to the special school fund thereof. (§6646.)

[Acts 1903, p. 346. Approved and in force March 9, 1903.]

873. Parks Used for Library. 1. It shall be lawful for the common councils or boards of trustees of all incorporated cities and towns in this state to authorize and permit the use of any public park in such cities or towns for the location and erection of city, county, town or township library buildings, and the use of such public park for such purpose shall not be considered as a vacation of such park nor as an abandonment thereof for the purpose for which the same was laid out or dedicated.

874. Prior Acts Legalized. 2. Prior actions of any of the common councils or boards of trustees of any of the incorporated cities or towns in this state in authorizing or permitting, by ordinance, the use of any of the public squares, spaces or parks in such cities or towns for the locations and erection of said county, town or township library buildings, be and the same are hereby ratified, confirmed, legalized and in all things made valid, and such action shall not be considered as a vacation of such square, space or park, nor as abandonment thereof for the purpose for which the same was laid out or dedicated.

[Acts 1891, p. 37. Approved and in force February 26, 1891.]

875. School and Library Tax in Cities of 30,000. 1. In all cities of the State of Indiana where boards of school commissioners have been elected and are managing the school affairs of said city under an act of the general assembly of the State of Indiana, entitled "An act providing for a general system of common schools in all cities of thirty thousand or more inhabitants, and for the election of a board of school commissioners for such cities, and defining their duties and prescribing their powers, and providing for common school libraries within such cities, approved March 3, 1871, and the various acts of the general assembly amendatory thereof, and supplemental thereto, and in which the office of city treasurer has been, or hereafter may be, abolished under and by virtue of an act of the general assembly of the State of Indiana, entitled 'An act concerning taxation for city and school purposes in cities containing a population of over seventy thousand, as shown by the last census of the United States; to abolish the offices of city assessor and city treasurer in such cities, and provide for the discharge of the duties of such offices and repealing laws in conflict therewith, approved February 21, 1885,' " such boards of school commissioners be and they are hereby authorized and empowered, in the manner and form in which they are now by law authorized to levy taxes, levy taxes for the support of the schools within such city, including such taxes as may be required for paying teachers, in addition to the taxes now authorized to be levied by the general assembly of the State of Indiana, not to exceed, however, in any one year, the sum of twenty-five cents on the one hundred dollars, of the taxable property as shown by the certificate showing the assessment and valuation for taxation of all taxable real and personal railroad property of such city, required to be delivered to said board of school commissioners by section 8 of the said act of the general assembly of the State of Indiana, approved February 21, 1885, and also to levy a tax each year not exceeding four cents on each one hundred dollars of the taxable property in said city, as shown by said certificate, for the support of free public libraries, in connection with the common schools of said city, and to disburse any and all revenues raised by such tax levied for library purposes, in the purchase of books and in fitting up of suitable rooms for such libraries, salaries to librarians and other expenses necessarily incident to the maintenance of such library; also, to make and enforce such regulations as they may deem necessary for the taking out, and returning to, and for the proper care of all books belonging to such libraries, and to prescribe penalties for the violation of such regulations.

876. County Treasurer Reports to Board of School Commissioners. 2. In all cities in the State of Indiana, where boards of school commissioners

have been elected and are managing the school affairs of said city, under an by virtue of said act of the general assembly of the State of Indiana, approve March 3, 1871, and in which the office of city treasurer has been, or ma hereafter be, abolished, under and by virtue of said act of the general assembl of the State of Indiana, approved February 21, 1885, as mentioned an described in the first section of this act, it shall be the duty of the count treasurer, on and after making his settlement with the county auditor o the third Monday of April, 1891, and the payment to the board of schoo commissioners of the amount by such settlement found to be due to it, a required by section 13 [R. S. 1894, §3758; R. S. 1897, §1283; Acts 1885, p 13] of the last above named act, at the close of each calendar month, to mak report, duly verified by his oath, to said board of school commissioners of al taxes and delinquent taxes collected within said month, and thereafter upon demand of the treasurer of said board of school commissioners, to pa to him, for the use of said board of school commissioners, the full amoun of said taxes and delinquent taxes shown by said report to have been col lected. Upon such payment being made, the treasurer of the board of schoo commissioners shall execute to said county treasurer his receipt for the amoun of money so paid, which receipt the latter shall deliver to the secretary o the board of school commissioners, who shall give him a quietus therefor and credit said county treasurer with the amount thereof, and charge such amount to the treasurer of said board of school commissioners.

877. County Treasurer's Credits. 3. Said county treasurer shall thereafter in his settlement with the county auditor, made as required by law, on the third Monday of April, and the first Monday of November, in each year, present such quietuses to the county auditor, who shall give such county treasurer credit therefor as against the sums with which he is charge able upon account of the collection of such school taxes.

1. REPEALING SECTION. The fourth section expressly repeals the act of 1889 p. 432, on the same subject.

[Acts 1901, p. 10. Approved and in force February 13, 1901.]

878. School and Library Tax in Cities of 15,000 to 30,000. 1. I all cities in the State of Indiana where boards of school commissioners hav been elected and are managing the school affairs of said city under an act o the general assembly of the State of Indiana, entitled "An act providing fo a general system of common schools in all cities of thirty thousand or mor inhabitants, and for the election of a board of school commissioners for such cities, and defining their duties and prescribing their powers and providing for common school libraries within such cities," approved March 3, 1871, and the various acts of the general assembly amendatory thereof and sup plemental thereto, and in all cities in the State of Indiana of 15,000 or mor inhabitants, where boards of school trustees have been elected and qualified under an act of the general assembly of the State of Indiana, entitled, "An act to amend section 1 of an act entitled 'An act to amend an act entitled An act to provide for a general system of common schools, the officers thereof and their respective powers and duties, and matters properly connected therewith, and prescribing the fees for certain officers therein named, and for the establishment and regulation of township libraries, and to repeal all laws

inconsistent therewith, providing penalties therein prescribed, approved March 6, 1865, and adding supplemental sections thereto,' approved March 8, 1873," (approved March 12, 1875), being section 4439 of the revised statutes of 1881, such board of school commissioners be and they are hereby authorized and empowered to issue bonds in any sum not exceeding one hundred thousand dollars, for the purpose of erecting buildings for library and school offices to be used in connection with the common schools of said city. Such bonds to bear interest not exceeding five per cent. per annum payable after eleven years from the date thereof and within twenty years from the date thereof, as follows, to wit: One-tenth thereof to be paid eleven years from date, and one-tenth thereof to be paid each succeeding year until all are paid; the money obtained from the sale of such bonds shall be disbursed by said board of school commissioners and said board of school trustees, respectively, in the erection of a building for the library and school offices to be used in connection with the common schools of said city. Such bonds shall be designated "library building bonds," and may be issued in such denominations, and in such sums from time to time as the board of school commissioners, or the board of school trustees, respectively, may deem expedient; and each of said bonds shall upon its face designate the date of the maturity thereof: *Provided*, That at no time shall the amount of bonds so issued for such purpose by any such board of school commissioners exceed the sum of one hundred thousand dollars; and that said board of school commissioners, or said board of school trustees, shall have no power to issue any renewal thereof, but the same shall be paid at maturity as hereinafter provided: *And, provided further*, That such bonds shall not be sold for less than their par value.

879. Payment of Bonds. 2. If the board of school commissioners, or the board of school trustees, in any city shall exercise the powers granted to it by this act, it shall provide for the payment of said bonds as follows: At the time of the levying of the taxes for the year which shall be collectable immediately before the maturity of the first maturing of said bonds, said board of school commissioners and said board of school trustees, respectively, shall levy, in addition to the levy of taxes they may be authorized to make for other purposes, a tax upon all property subject to taxation by it sufficient to pay the first maturing of such bonds, and apply the money raised thereby to the payment thereof; and each year thereafter said board of school commissioners and said board of school trustees, respectively, shall levy such tax, and apply the proceeds thereof to the payment of the bonds successively maturing until all shall have been paid.

[Acts 1911, p. 186. Approved March 3, 1911.]

880. Towns—Transfer of Property to Library Board. 1. Whenever the town board of any town shall heretofore have purchased or otherwise acquired any property for the purpose of transferring the same for library purposes to the public library board of such town, it shall be lawful for such board to transfer such property to the public library board and for the public library board to accept such property for library purposes, and that such property shall revert to the town board whenever it ceases to be be used for library purposes.

881. Purchases Legalized. 2. All purchases of property heretofore made by town boards for the purpose of transferring the same for library purposes to the public library board are hereby legalized and rendered valid.

[Law without signature of Governor. Acts 1917, p. 110.]

882. County Libraries—Maintenance and Control. 1. That the county commissioners of any county in which there is no free public tax supported library in any city or town may establish a county public library open and free to all the inhabitants of the county, and levy a tax of not less than one-tenth of a mill nor more than one mill (1) on the dollar on all taxable property assessed for taxation in such county: and on written petition of twenty-five (25) resident freeholders of each township in the county not already taxed for library purposes shall establish such library and levy such tax. Such petition shall be filed with the clerk of the circuit court and an attested copy of such petition shall be filed with the board of county commissioners. Within five (5) days after a tax for such library has been levied in any county, or such petition has been filed, the clerk of the circuit court of such county shall notify the judge of the circuit court, the county superintendent of schools, and the board of county commissioners of such action. Within ten (10) days after these notices have been sent to the appointees, the county commissioners shall appoint two (2) members, one (1) of whom shall be a woman, to the county public library board for a term of one (1) year; the county superintendent of schools shall appoint two (2) members, one(1) of whom shall be a woman, for two (2) years, and the judge of the circuit court shall appoint three (3) members one (1) of whom shall be a woman, one (1) for one (1) year, one (1) for two (2) years, and one (1) for three (3) years. Not more than two (2) of the appointees shall reside in any one (1) township. The terms of office of all persons first appointed under this act shall continue until January 15th following the date of their expiration as provided in this act and thereafter all appointments shall take effect on January 15th. All members of such public library board appointed as herein provided shall serve until their successors are appointed and qualified. The appointing officer or officers in making the appointments, shall select persons of well known probity, integrity, business ability and experience, and who are fitted for the character of the work they are to perform, and who shall have resided for a period of not less than one (1) year, immediately preceding their appointment, in the county for which they are appointed, and who shall not be less than twenty-five (25) years of age at the time of appointment, and who shall serve without compensation for service. In case of vacancy on such board from any cause, it shall be the duty of the officer or board making such appointment to fill such vacancy occurring in the membership appointed by each respectively.

883. Board Members—Certificate—Oath. 2. All appointments to membership on the county library board shall be evidenced by certificates of appointment, duly signed by the officer or the clerk or secretary of the board making the appointment, and delivered to the appointee. Within ten (10) days after receiving such certificate such appointee shall qualify by taking an oath before some officer authorized to administer oaths, that such appointee will faithfully discharge the duties as a member of the public library board

to the best of his ability; and he shall file such certificate, with the oath endorsed thereon, with the clerk of the circuit court of the county in which such library is to be established. Such clerk shall thereupon make a record of such appointment and the term thereof.

884. Organization—Powers and Duties—Funds. 3. The members appointed as in this act provided, shall constitute and be known as the county library board. They shall meet within ten (10) days of their appointment and shall organize by electing a president, a vice-president and a secretary. They shall have control and disbursement of the public funds for the use of the library from whatever source derived, and the custody and control of all the books and other property of every name and description, and shall have the power to purchase books, pamphlets, periodicals and other material and all necessary equipment, furniture and supplies, and direct all the affairs of such county public library; and such library board, in the name of the library, shall be empowered to receive donations, bequests and legacies, and to purchase, receive, sell, and convey real estate and personal property for and on behalf of such library. They shall have the power to make and enforce rules for the management of such libraries as they may deem necessary, employ librarians, assistants, janitors, and other employes, require official bonds, establish branches and deposit stations, issue or sell certificates or library cards to non-residents, pay the expenses of delegates to library meetings and do all things necessary to promote the interests of the library.

All county library money shall be held by the county treasurer and kept as a separate fund and deposited in the public depositories and all interest accruing thereon shall be credited to the library fund: *Provided*, That the library board may invest any gift, bequest, or devise in interest-bearing securities. Such treasurer shall pay out library funds for library purposes only upon the warrant of the president of the library board, countersigned by the secretary thereof; and the president and secretary shall issue such warrant only upon itemized vouchers which shall be accompanied by itemized bills, and which shall be certified as to correctness by the chairman of the finance committee of the library board and signed and sworn to by the librarian. The oath required may be administered by the secretary of the board and shall be administered without charge. The treasurer of such county shall be liable on his official bond for the faithful performance of the duties imposed upon him by this act.

In any county in which there now exists a county library fund, such fund shall become available for library purposes as soon as the county library board is organized as above required.

885. County May Aid City Library—Conditions. 4. Whenever the library board of any public library established in any city or incorporated town in this state shall file notice with the board of county commissioners of the county in which such library is located, of consent of such library board to make such library open and free to all the people of said county not already having free library privileges, on the condition of the said county contributing to the support of such public library, such board of county commissioners may, and, upon petition of twenty-five (25) resident freeholders of each township in the county, not already taxed, for public library purposes, shall make an annual appropriation and levy a tax of not less than one-tenth

of a mill, and not more than one (1) mill on each dollar of taxable property in said county, including the property of any city or incorporated town in the county, not already taxed for public library purposes and the county treasurer shall collect and pay the same to the treasurer of such city or town where such library is located to be held a part of the library fund and to be paid out in the same manner as other library funds. Said tax shall be continued so long as ten per cent (10%) of the inhabitants of said county outside the limits of said city or town are found to be users of said library, or when less than ten per cent (10%) of the inhabitants shall use the said library, the board of county commissioners may, at its discretion, continue the tax herein specified.

886. Board, Appointment of—Qualifications. 5. If the board of county commissioners shall levy a tax for library purposes as provided in section four (4) of this act and pay the same over to the treasurer of such city or town where such library is located, then such county commissioners shall within ten (10) days appoint two (2) persons, one of whom shall be a woman, residing in some part of said county which is contributing a tax for the support of the county library, outside the limits of the city or town in which such library is located, not otherwise appointed, as members of said public library board, who shall become members of such county library board and such appointment shall be for a period of two (2) years, and the county superintendent of schools also shall appoint two (2) such members with qualifications as above provided for a period of one (1) year and three (3) years respectively. The members so appointed shall have the same qualifications and equal authority with other members of the public library board in the levying and expending of all county taxes and in the maintaining of library service to the inhabitants of the county outside the city in which the library is situated.

887. Tax Levy, How Made. 6. It shall be the duty of the county library board as organized under any section of this act, to determine annually the rate of taxation that shall be necessary to establish, increase, equip and maintain the public library and certify the same to the board of county commissioners and to the county auditor: *Provided*, That said levy shall be not less than five-tenths of a mill and not more than one (1) mill on each dollar of all the taxable property assessed for taxation in such county, city, town or township, as shown by the tax duplicate for the year immediately preceding the fixing of such levy. When the levy for such public library purposes shall be certified to the board of county commissioners, and the county auditor, by the county library board, the same shall be placed upon the tax duplicate of such county, and collected in like manner as other county taxes are levied and collected.

888. Combination of City and County Libraries. 7. In any county in this state in which there shall hereafter be established a county library, the library board of any existing public library in any incorporated town or city, or of any township or townships or any combination thereof, may, with the consent of the county library board, pay over to the county library board the income from any or all sources on the condition that said county library board shall have full power in the management of and shall maintain such city or town or township library as a branch of the county library and that

the inhabitants of such city, town, township, or townships shall have all the privileges of said county library; and that such library shall remain a part of such county library as long as ten per cent (10%) of the inhabitants of such city, town, township, or townships shall be users of the county library through said branch.

889. Liability of Commissioners and Board. 8. If any board of county commissioners or any board contributing to said library shall fail or refuse to levy the library tax provided for herein, the members of such board shall become jointly and severally liable for the amount such levy would produce on the assessment of such county if fully collected, and the same shall be recovered from them in suit by any taxpayer of such county on behalf of the treasurer thereof, and shall be included in the funds of such library in lieu of such law.

CHAPTER XXXIII.

Public Depositories.

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[Acts 1907, p. 391. Approved March 9, 1907.]

890. Public Officers—Cash Book. 1. It shall be the duty of every public officer in this state who receives or disburses public funds, to keep a cash book wherein there shall be daily entered, by item, all receipts of public funds, which cash book shall be daily balanced, showing funds on hand at the close of each day: *Provided*, Said cash book shall be a public record and open to public inspection. (§7522.)

891. State Officers—Payments to Treasurer. 2. After thirty (30) days from the taking effect of this act, all funds shall be paid into the state treasury by each state official handling public funds, and an itemized statement thereof shall be kept by said state official as provided for in section 1, and said state official shall make quarterly settlements with the auditor of state of such funds paid into the treasury, as provided for in this act. (§7523.)

892. Institutions, Boards, etc.—Payments to Treasurer. 3. It shall be the duty of the state board of medical registration and examination, the Indiana board of pharmacy, the several boards of trustees of the several hospitals for the insane, the board of trustees of the Indiana state school for the deaf, the board of trustees of the Indiana school for the blind, the board of trustees of the Indiana school for feeble-minded youth, the board of trustees of the Indiana soldiers' and sailors' orphans' home, the board of trustees of the Indiana state soldiers' home, the board of trustees of the Indiana state prison, the board of trustees of the Indiana reformatory, the board of trustees of the Indiana boys' school, the board of trustees of the Indiana girls' school, the board of trustees of the Indiana women's prison, the

board of trustees of the Indiana village for epileptics, the board of trustees of the hospital for treatment of tuberculosis, the board of control of the State soldiers' and sailors' monument, or the secretary, superintendent, or other person having charge of such institutions, boards, schools or offices, on the first Monday in each month to pay into the state treasury all funds in their possession due the state from receipts and earnings: *Provided*, That this section shall not prevent the several boards and persons named herein having control of state funds from keeping on hand such working balance as may be directed by the state board of finance provided for herein. (§7524.

893. Fees—Salary—Treasurer. 4. In all cases where it is now provided by law that any state officer, board, body or department, shall collect any fee for any service rendered, or examination had, and appropriate the fee so collected to pay the salary, per diem, or the expenses of any state officer, board, body or department for rendering service or making examination, such fees shall be by such officer, board, body or department, paid into the state treasury as provided for in this act, and the salary, per diem and expenses on account of such services, shall be paid out of the state treasury upon an account duly filed and approved as is now provided by law. Such salary, per diem and expenses, however, shall not be in excees of the fees so collected and turned into the state treasury unless otherwise specifically provided. (§7525.)

894. State Board of Finance. 5. The Governor of the state, the auditor of state, and the treasurer of state shall constitute a state board of finance, and shall have advisory supervision of the safe-keeping of all funds coming into the state treasury, and all other funds belonging to the state coming into the possession of any state board, officer or state institution. Such board of finance shall have supervision of all the fiscal affairs of the state, including the state sinking funds. Such state board of finance shall meet immediately after the taking effect of this act, in the office of the auditor of state, and organize by electing from their membership a president. The auditor of state shall be the secretary of said board of finance. The proceedings of such board shall be entered at length in a record to be provided for that purpose, and be approved and signed by the president of the board, and attested by the secretary. Such board of finance shall hold sessions whenever necessary to discharge its duties. Its sessions shall be public, and its records shall be kept in the office of the auditor of state and be subject to public inspection. The president of said board shall convene such board whenever requested so to do by one of its members, or whenever necessary to the performance of its duties. Such board may sue, and be sued in its name, in any action, and in any court having jurisdiction, whenever necessary to accomplish the purposes of this act. The treasurer of state shall be required to execute a bond with good and sufficient surety to be approved by the Governor and auditor of state, which bond shall be in an amount to be fixed by said Governor and auditor, not to exceed double the amount such treasurer may have in his hands and under his control, and conditioned upon the faithful performance of his duties as such treasurer and shall be in lieu of the bond now required by law. (§7526.)

895. County Board of Finance. 6. The board of county commissioners in each county in the state shall constitute a county board of finance. The members of such county board of finance shall immediately after the taking effect of this act, meet in the room of the board of county commissioners in the court house. The county auditor shall be the secretary of such county board of finance and a record of its proceedings shall be made. The meetings of such board shall be public and its records open to inspection. such board may sue and be sued in its name, in any action, and in any court having jurisdiction whenever necessary to accomplish the purposes of this act: *Provided*, That in all counties in which the county treasurer is ex officio treasurer of the city which is the county seat of such county, and is ex officio treasurer of the school city or board of school commissioners of such county seat city, the county board of finance shall consist of the board of commissioners of such county, the mayor and comptroller (if any) and the chief executive officer of such school city or such board of school commissioners of such county seat city. The auditor of such county shall act as secretary of such board and in case of a tie shall cast the deciding vote. The mayor shall preside but shall have the power to vote on all questions. When there is no comptroller in such city, such board shall consist of the other named officers as above set forth. In such counties such county board of finance shall be and is hereby constituted the board of finance to have charge and control under this act of the county funds, also of the funds of such county seat city, also of the funds of such school city or board of school commissioners in such county seat city. (§7527.)

896. Compensation. 7. The county auditor shall be paid fifty dollars ($50.00) per annum in addition to his regular salary, on account of the additional services required of him by this act, to be allowed by said board and to be paid out of the county treasury. The other members of the county board of finance shall serve without compensation other than their salary as county commissioners. Such board shall hold meetings whenever necessary in the discharge of its duties as such, and the county auditor shall convene such board whenever reason therefor exists or when requested so to do by one of its members. Said county board of finance shall have advisory supervision of the deposit of public funds of the county treasury as provided for in this act. (§7528.)

897. Cities and Towns—Board of Finance. 8. The mayor and common council of each city, except such county seat cities as are mentioned in section 6 hereof, and the board of trustees of the several towns in this state, for the purposes of this act, shall be constituted boards of finance of such cities and towns respectively. The city clerk in each city, and the town clerk in each town, shall act as secretary of his respective board of finance: *Provided*, That in cities having a comptroller, said comptroller shall be the secretary of said board of finance. The city and town boards of finance shall meet immediately after the taking effect of this act, and organize by electing a president of their respective boards, and a record thereof shall be made of their action. Said meetings shall be held at the usual place of holding meetings of the said city councils and town boards, which meeting shall be open to the public, and the record at all times, open to inspection. Such city and town boards of finance may sue and be sued in their names,

as such, in any action, and in any court having jurisdiction, whenever necessary to accomplish the purposes of this act. The members of such boards shall serve without compensation, other than the salaries now allowed by law for their services as officers for said cities and towns. Such boards shall hold meetings whenever necessary to the discharge of their duties, and the secretaries thereof shall convene the same when requested so to do by any member of said board. Such boards of finance shall have advisory supervision of the safe-keeping and deposit of the public funds of their respective cities and towns. (§7529.)

898. School and Township Board of Finance. 9. The boards of school commissioners of each school city in this state, having such, and the board of school trustee of each city in this state, having such, except those in such county seat cities as are mentioned in section 6 hereof, and the board of school trustees of each school town in this state, and the advisory board of each township in this state, for the purposes of this act are hereby constituted a board of finance for their respective corporation. The board of finance of the several townships, and the boards of finance of the several school cities and school towns of this state, shall meet immediately after the taking effect of this act, at their usual place of holding meetings in their respective cities, towns and townships. Said meetings shall be open to the public, and records thereof made, and each board shall organize by electing a president and secretary from its membership. Such several boards may sue and be sued in their names as such, in any court having jurisdiction, whenever necessary to accomplish the purposes of this act. The members of such boards shall serve without additional compensation, and meetings shall be held whenever necessary in the discharge of their duties. Said city and town school boards, and advisory boards of townships, acting as boards of finance for their respective school cities and school towns and townships, shall have advisory supervision of the safekeeping and deposit of all public funds belonging to such school cities, school towns and to such townships and the several school townships. (§7530.)

899. Depository Deposits—Treasurers. 10. Immediately after the organization of said several boards of finance and the designation by them of public depositories, as by this act provided, the treasurer of state, the several county treasurers, the several city treasurers, the several town treasurers, the several treasurers of the board of school commissioners of the several school cities, the several treasurers of board of school trustees of school cities, the several treasurers of the boards of trustees of school towns and the several township trustees, who receive, or have on hand any public funds by virtue of such office, and subject to deposit, shall make deposit of such funds in the depository or depositories selected by said boards of finance respectively, and file with the secretary of the said respective boards a verified statement of the funds deposited. (§7531.)

900. Requirements as to Depository—Bonds. 11. No public funds shall be deposited in any bank, banking institution or trust company of this state, pursuant to the provisions of this act, unless such institution is subject by law to visitation and examination by the comptroller of the currency for the United States government, through national bank examiners,

or by the auditor of state through state bank examiners and until such depository has presented to said board of finance a personal bond executed by not less than seven (7) freeholders of the State of Indiana, as security in a sum equal to sixty per cent [of] the maximum amount of the funds to be held on deposit at any one time, or has presented a surety company bond in a sum equal to one-half the amount of funds to be so held at any one time, said bonds to be approved by the said respective boards of finance. (§7532, as amended 1909, p. 182.)

901. Other Forms of Security. 12. The several banks and trust companies may, in lieu of a personal or surety company bond provided for in section 11 hereof, be designated as depositories upon their delivery to the state board of finance, or to the several boards of finance of counties, cities, towns, school cities and school towns, and townships, the bonds of any county of this state, or issued by any county of this state for the improvement of roads, bonds of the United States, or bonds of the State of Indiana, for the full face value equal to one-half of the maximum amount to be deposited in any bank or trust company, which bonds shall be deposited with, and held by the auditor of state, or by the respective boards of finance of the counties, cities, towns, school cities, school towns, and townships as security for such deposits: *Provided*, That before such national, state, or county bonds, or other form of security are accepted by the several boards of finance, they shall determine the value and validity of said security so tendered: *Provided, further*, That any bank or trust company may furnish the securities provided for in this section for any portion of the maximum amount to be deposited in it, and may furnish the personal or surety company bond pursuant to section 11 hereof, for the remainder of such maximum amount. (§7533, as amended 1909, p. 183.)

902. Surety Disapproved—Court Decision. 13. If any board of finance fails or refuses to approve the bond or securities of any such bank or trust company, the same may be presented to the circuit or superior court in the county, or the judge thereof in vacation, which, after three (3) days' notice to the secretary of any such board of finance, shall proceed to hear and determine the sufficiency of such bond or security, and shall approve or disapprove the same as the facts warrant. Such court or the judge thereof in vacation shall also investigate the financial responsibility of any such bank or trust company and determine its fitness to be designated a depository of public funds. If such court or the judge thereof in vacation approves said bond or security, and finds said bank or trust company a proper institution to be entrusted with such funds, said bank or trust company shall be declared by such court or the judge thereof in vacation a public depository. (§7534.)

903. Funds—Inviting Proposals to Receive—Notice. 14. Within twenty (20) days before the time set for the meeting of said several boards of finance, the secretaries of said boards of finance shall mail to each bank or trust company of their respective townships or counties a notice which shall invite proposals, to be filed with said several boards of finance on the date mentioned in such notice, proposing to receive public funds on deposit as

rovided for in this act. Such notice to be sent by registered mail and the eceipt received for such letter shall be filed with the records of the office f said secretary. (§7535, as amended 1909, p. 437.)

904. Proposals for Funds—Interest—Surety. 15. Any bank or rust company subject to examination by state or national authority and aving its place of business in this state, and doing business herein, which hall desire to receive public funds of the state on deposit, or any such bank r trust company within any county, desiring to receive on deposit public unds of the county, or of any public corporation within the county shall file with the respective board of finance on the day mentioned in such notice provided for in section fourteen hereof, its written proposal to receive a maximum sum of public funds on deposit, and agree to pay interest on daily balances, at the rate of two per cent (2%) per annum, and upon semi-annual time deposits, two and a half per cent (2½%) per annum, and upon annual time deposits three per cent (3%) per annum: *Provided*, The bond or securities required in sections eleven and twelve of this act shall be filed and deposited within five (5) days after notice that an award has been made, and before a deposit of any public funds under said award shall be made: *Provided further*, That all interest so earned shall be added respectively to the tuition fund of the township, general fund of the state, city and town, county fund of the county, and to the tuition fund of the school city or school town, except in all cases interest on school fund shall be applied to tuition revenue: *Provided further*, That any interest derived from the funds of a state educational institution, shall be added to the fund from which it is derived. (§7536, as amended, 1909, p. 437.)

905. Creation of Depository—Revocation—Appeal. 16. The boards of finance shall meet at the time and place fixed in said notice, and shall open such proposals and consider the same, and any bank, banks or trust companies within the state tendering security as provided for in this act, and agreeing to pay the interest provided herein, shall be constituted depositories for public funds: *Provided*, That the commission of any depository may be revoked at any time, and an immediate accounting and settlement required by the board of finance under which it operates for any cause deemed sufficient by such board of finance. Such depository, however, shall have the same right of appeal, and the circuit or superior court, or the judge thereof in vacation, the same jurisdiction to try and determine the case, as provided for appeals in section 13 hereof. (§7537.)

906. Selecting State Depositories—Finance Boards—Record. 17. The state board of finance shall establish and declare banks and trust companies [depositories] for state funds with reference to the convenience of officers and state institutions using them. When any board of finance has established a depository or depositories for public funds, the president of such board of finance shall approve and accept said bank, banks or trust companies as depositories for public funds, and the secretary thereof shall attest said acceptance, and thereupon the notice, proposal, bond or securities, and acceptances, shall be recorded by the secretary as provided therefor in a book kept for that purpose. Such boards of finance in the acceptances executed by them shall fix the maximum amount of funds which shall at any time be

placed on deposit in any such institution, and the attorney-general, upon the approval of this act, shall prepare forms of proposals, forms of bonds and forms of acceptances which shall be used and observed by the several boards of finance, in the execution of this act. The first designation of public depositories pursuant to this act, shall remain effective until the first Monday in January, 1909. On the first Monday in January, 1909, and biennially thereafter, the several boards of finance created by this act shall designate public depositories for the ensuing two years and upon the terms and according to the regulations prescribed in this act, and after notice of their meeting shall have been given for twenty days by the secretaries thereof, as provided in section 14 of this act. (§7538.)

907. Title to Securities—Record—Default—Sale. 18. The title for all collateral bonds deposited by any bank, banks or trust companies, to secure the deposit of public funds, as provided in this act, shall vest in the board of finance with which the same are deposited, for the use and benefit of the state, [county], city, town, township or school corporation whose funds are secured thereby. There shall be entered on record in the records of such boards of finance, a list of the bonds so deposited, the date of deposit, and the date of release and surrender of the bonds so deposited. During the time that such bonds are so deposited, and while the funds that secure them remain unpaid and unaccounted for, such bonds so deposited shall not be negotiable or transferred either in writing or by delivery. All interest coupons accruing upon any such bonds while on deposit shall belong to and be delivered by the custodian thereof to the depository depositing the same, provided said depository is not in default in any of the public funds. If a collateral bond matures while the deposit continues, or if for any other reason it becomes necessary to said depository to withdraw such collateral bond or security, the depository depositing the same shall be entitled to withdraw any such collateral bond, substituting therefor other collateral bonds to the approval of said board of finance. In case any depository defaults in the payment of any public funds so deposited, the collateral bonds so deposited shall be sold at public sale for cash, to the highest bidder, after thirty (30) days' notice of the time and place and terms of sale, which notice shall be given by publication in two newspapers of the county where the sale is to take place. The sale of said collateral bonds, for and on behalf of the state board of finance, shall be conducted by the auditor of state; for and on behalf of the county board of finance, by the county auditor; for and on behalf of the city, by the mayor and common council; for and on behalf of the town boards of finance, by the board of town trustees; for and on behalf of the township board of finance by the auditor of the county; for and on behalf of school city and school town boards of finance, by the trustees of such city or town school boards. And the funds realized from such sale shall be applied to the payment of the expenses of the sale, then the sum due from such depository, and the balance, if any, shall be turned over to such depositoey. The title of any collateral bonds so sold shall pass by delivery of said board of finance to the purchaser, and a record of such sale shall be made by the secretary of said board of finance: *Provided,* That if the collateral bonds shall not sell for a sum sufficient to pay the amount due by such depository, any balance unpaid shall be a claim against the assets of such depository. (§7539.)

908. State Institution Deposits—Treasurer's Settlement. 19. The state board of finance shall arrange for the deposit of all state funds held by state schools or educational institutions, and all funds held by any state institutions now authorized to keep public funds on hands, in banks or trust companies, convenient to said officers or institutions, and said deposits shall be made in accordance with the provisions of this act, and such state board of finance is hereby authorized to adopt such rules and regulations concerning the safe keeping and deposit of such state funds as may become necessary to accomplish the purpose of this act. That in all settlements made by the several county treasurers of the state with the treasurer of state the treasurer of state shall accept from the county treasurers certificates of deposit issued by any authorized depository of any county in the state in payment of any settlement due the state on account of the common school fund, common school tuition fund and all other funds levied for school purposes for which settlement is required with the treasurer of state, collected by any such county treasurer to an amount approximately equal to the sum of money to be returned to any such county by the state on account of the common school distribution, which certificate of deposit shall be returned to the county in the settlement of any amount due such county on account of such distribution. (§540, as amended 1909, p. 324.)

909. Monthly Statement by Depositories—Checks. 20. Each depository in this state having public funds on deposit shall furnish to the board of finance, under which it operates, on the first day of each month, an itemized statement of the public funds in such depository, which statement shall be filed and carefully preserved in the office of the secretary of said board of finance, and all sums of interest accruing on the funds deposited as aforesaid shall be credited to the deposit accounts by said depository on the first day of each month for the preceding month, and the auditor of state, and each county auditor, shall charge the treasurers respectively with the amount of such interest and credit the same to the state or county. The city or town board of finance, school city or school town board of finance, and the township board of finance, shall make such settlements concerning interest accruing on public deposits with their treasurers and trustees under such rules and regulations as they may adopt: *Provided*, That all checks drawn upon depositories shall be signed by officers authorized to sign the same in their official capacity: *Provided, further*, That all funds paid out of the state treasury shall be by check of the state treasurer upon the warrant of the auditor of state. (§7541.)

910. Published Reports—Auditor's Powers. 22. Every national banking corporation designated as a depository under the provisions of this act having public funds on deposit as such, is hereby required to submit to the state bank examiner for examination, and to submit any published report or reports made to the comptroller of the currency relating to the financial condition of such association. The auditor of state may call for reports from any depository designated as such by any such board of finance whenever in his judgment the same is necessary in order to obtain full and complete knowledge of the condition of the public funds therein deposited. (§7543.)

911. Selection Without Advertising—Outside of County. 23. That in counties where only bank or trust company is located, the board of finance shall designate such bank or trust company a depository without advertising: *Provided*, Such bank or trust company agrees to pay interest at the rates as provided for in this act, and give security as herein provided: *Provided further*, That in counties where there is no bank or trust co pany, or where no bank or trust company offers to accept public funds on deposit and comply with the requirements of this act, the board may designate some bank, banks or trust companies outside of such county, and within the state, as such depository or depositories. (§7544.)

912. Daily Deposits—Embezzlement—Penalties. 24. All public funds paid into the treasury of the state, counties, cities and towns and school cities and school towns shall be deposited daily in one or more designated depositories in the name of the state, county, municipality, or school corporation by the officer having control thereof, except that the public funds collected by the secretary of state, auditor of state, attorney-general, clerk of the supreme court, chief oil inspector, commissioner of fisheries and game, or any state officer or board having an office in the state capitol building other than the treasurer of state, shall be deposited with the treasurer of state; all such state funds to be deposited on the day following the collection thereof, and the funds collected by the township trustee to be deposited in the public depository provided therefor, on or before the first and fifteenth days of each month: *Provided*, That all taxes collected by the county treasurer shall be deposited as one fund in the several depositories selected for the deposit of county funds, and except as hereinafter provided, shall so remain until the same is distributed at the following semi-annual distribution made by the county auditor. And no such officer shall draw any check upon any such depository for any purpose except for the payment of a warrant drawn by the auditor of state, or warrant or order drawn by the county auditor, or the proper officer of a city town, school city or school town, or in payment of a legal claim against a township, and if any such officer or person mentioned herein shall fail so to deposit such funds, or shall deposit the same in any manner except in accordance with the provisions of this act, or shall draw any check against such funds except as provided for in this act, he shall be deemed guilty of embezzlement of public funds and upon conviction shall be imprisoned in the state's prison not less than one year nor more than twenty years, and fined in any sum not to exceed one thousand ($1,000) dollars, and may be removed from office under the proceedings authorized by law, and shall be liable upon his official bond for any loss or damage which may accrue: *Provided, further*, That if any public official charged with any other duty under this act shall knowingly fail to discharge and perform the same, he shall violate any of the provisions of this act, he shall upon conviction thereof be fined in any sum not less than $50.00 nor more than $1,000.00, and to it may be added imprisonment in the county jail for any period not less than thirty days nor more than six months: *Provided, however*, That every county treasurer who, by virtue of his office, shall be the collector of taxes for any city, town, school city or school town, within his county, shall on the first day of each calendar month, make an estimate of such taxes so collected by him for each such city, town, school city or school

town, respectively, during the preceding month and certify the respective amounts to the auditor of such county, and the auditor of such county shall thereupon draw his warrants upon such county treasurer in favor of such city, town, school city or school town for the respective sums so certified which warrants shall be delivered by such auditor to such respective cities, towns, school cities or school towns through the city controller, if any, and if not then to the city or town clerk, and upon the presentation of such warrants to the county treasurer he shall promptly pay the same to the treasurer of such city, town, school city or school town, which respective sums shall be immediately available for the use of such city, town, school city or school town pending a full settlement with the county auditor at the time of his next regular semi-annual distribution of funds and for the purpose of such monthly certification by the county treasurer and the drawing and delivery of such warrants by the county auditor and the immediate use of the amounts so certified; all moneys collected by the county treasurer for the benefit of a teachers' pension fund shall be deemed moneys collected by him for such school city or school town within the meaning of this proviso. All warrants and orders for the payment of public money, excepting state and township funds, shall be drawn by the proper officer upon the proper treasurer, and to each warrant and order when drawn may be attached a readily detachable slip showing the number, date and amount, name of the payeee, the purpose, the fund upon which it is drawn, and the name and office of the drawer; suchwarrants and orders shall be presented to the proper treasurer who shall detach and retain the slip, and stamp upon the warrant or order the name of the depository by which such warrant or order is payable, and countersign the same, and no warrant or order shall be effective until so stamped and countersigned: *Provided, however*, That the said treasurer when any warrant or order shall be presented for stamping and countersigning may, after stamping and countersigning the same, or convenience of the persons presenting the same, pay the amount thereof to such holder presenting the same and take an assignment by endorsement of such warrant or order and deposit the same in the proper depository in lieu of the cash so paid out to the holder of such warrant or order. All township warrants shall be drawn by the township trustee directly against a township depository. (§7545, as amended 1911, p. 616.)

913. Official Liability—Exemption. 25. When the public funds of the state, county, city, town, township, or school corporation are deposited by the officers having control thereof, as provided herein, such officer and his bondsmen shall be exempted from all liability thereon by reason of loss of any such funds from failure, bankruptcy, or any other act, of any such depository or depositories, to the extent of the funds in the hands of any such depository or depositories at the time of such failure or bankruptcy: *Provided*, This act shall be in effect and full force on and after December 1st, 1907. (§7546.)

CHAPTER XXXIV.

TEACHERS' INSTITUTES.

SEC.		SEC.	
915.	Township institutes—Attendance—Wages.	917.	Teachers' institutes—Expenses.
916.	Schools in session on Saturdays—Wages.	918.	Schools closed.
		919.	Sessions.

[Acts 1917, p. 90. Approved February 28, 1917.]

915. Township Institutes—Attendance—Wages. 1. That at least one (1) Saturday in each month during which the public school may be in progress, shall be devoted to township institutes or model schools for the improvement of teachers; and two (2) Saturdays may be appropriated at the discretion of the township trustee of any township. Such institute shall be presided over by a teacher or other person designated by the township trustee of the township. The township trustee shall specify in a written contract with each teacher, that such teacher shall attend the full session of each institute contemplated herein, and for each day's attendance at such institute each teacher shall receive the same wages as for one day's teaching: *Provided*, That no teacher shall receive such wages unless he or she shall attend a full session of such institute and perform the duty or duties assigned: *Provided, further*, That such Saturday teachers' institutes may be held in the school cities and school towns at the discretion of the boards of education and superintendent of school of the school cities and school towns under all conditions set out above for township teacher's institute.

916. Schools in Session on Saturdays—Wages. 2. That it shall be lawful for the school board of any city which maintains its school in session on Saturdays in addition to the other school days of the week to pay the wages of the teachers thereof for such Saturdays.

1. A trustee failing to comply with the above is subject to prosecution and removal from office.

2. TEACHERS MUST TAKE PART. The object of this institute is the improvement of the teachers of the township. It seems to me that all the powers necessary to carry out this object are by common law conferred upon the persons managing the institute. The object of the institute will utterly fail unless the teachers attending take part in the exercises. I think, therefore, the contract which the trustee makes with the teachers, in relation to township institutes, necessarily requires the teachers to perform such reasonable exercises and duties as may be assigned to them. Indeed, the statute provides that the trustee may designate one of the teachers to preside over the township institute. I am of the opinion that the mere presence of a teacher at a township institute does not fill the requirements of the law.

LICENSE MAY BE REVOKED FOR FAILURE TO ATTEND INSTITUTE. Teachers are required to attend township institutes, and for neglect thereof their licenses may be revoked.—Stone v. Fritts, 169 Ind. 361.

[Acts 1907, p. 76. Approved February 25, 1907].

917. Teachers' Institutes—Expenses. 1. There shall be held in each county in Indiana, in each year, for five successive days, a teachers' institute,

and that for the purpose of defraying the expenses of such institute the county auditor shall annually draw his warrant in favor of the county superintendent on the county treasurer for $100.00. All laws and parts of laws in conflict herewith are hereby repealed. (§6641.)

1. SUPERINTENDENT'S DUTY AND PAY. Such an institute as is contemplated by the law is not a voluntary association, but a teachers' meeting, at the head of which is the county superintendent. He, therefore, has no right to surrender it into the hands of an incompetent director, nor to permit a course of procedure by any one, or by the institute itself, by which time shall be wasted or unsatisfactory work done. The teachers are there to be instructed, and the superintendent must necessarily take the responsibility of the institute upon himself. The money which the auditor is authorized to pay is to defray the expenses of the institute exclusive of the per diem of the superintendent, whose compensation must be obtained in the usual way. He is also entitled to his per diem for reasonable services in making preparations for the institute.

918. Schools Closed. 160. When any such institute is in session, the common schools of the county in which said institute shall he held shall be closed. (§6639.)

919. Sessions. 161. The several county superintendents are hereby required, as a part of their duty, to hold, or cause to be held, such teachers' institutes at least once in each year in their respective counties. (§6640.)

Suggested forms:

PETITION TO CHANGE SITE OF SCHOOLHOUSE.

State of Indiana }
County of } ss:

.....Superintendent of Schools for said county:

The undersigned, who are residents of School District No.....of .....Township of said County and patrons of the school heretofore and hitherto held in the school house of said School District No.... herein petition and ask that the said school house now located in..... .....in said County be removed to and located upon a site..... in said County, and, if it be found necessary to build a new school house in the said district, that it be located upon the new site as described above.

As reasons for the change of site of this schoolhouse in the said District No..... we would respectfully state that..... ....

We therefore ask that an order be made authorizing the school trustee of said township to make the change herein proposed and as above described as we will ever pray.

.....
Township Trustee.

Patrons.

.....	.....
.....	.....
.....	.....
.....	.....

AFFIDAVIT OF TRUSTEE CONCERNING CONTENTS OF PETITION TO CHANGE SITE OF SCHOOLHOUSE.

State of Indiana }
County } ss:

.....of lawful age, being duly sworn, on his oath states that he is now the duly and legally qualified and acting trustee of..... Township in said County and ex-officio the trustee of the school township of the said.....Township; that he is familiar with the enumeration of the children of school age that reside within the limits of the present School District No.....(..) of said township and all the patrons of the school in said district, and he states that the attached and foregoing petition for the change in the location of the school house in said district is signed by a majority of the said patrons of said school which has hitherto been held at the location described in the petition and the several signatures thereto are all genuine, and the said petition is the prayer and request of a majority of said patrons, and further saith not.

.....
Township Trustee.

Subscribed and sworn to before me this.....day of .....A. D. 19....

.....
Notary Public.

My commission expires.....

PUBLIC NOTICE OF HEARING.

Notice is hereby given that a petition has been filed with the County Superintendent of the Public Schools of..... County, State of Indiana, praying that the present site of the schoolhouse in District No.....(..) of.....Township be changed to a site on.....in said township, ...county, and said petition will be presented to said County Superintendent at his office on....., 191..., at.....

.....
Trustee of.....Township.....County.

AFFIDAVIT OF TRUSTEE CONCERNING POSTING OF NOTICES.

State of Indiana } ss:
County }

....., upon his oath, says that he posted up the above notice in writing at five public places within..... Township, of said county, three of which were in the immediate neighborhood from where said school house is to be moved, at least twenty days prior to the time when the same is to be heard by said County Superintendent.

.....
Trustee of.....Township.

Subscribed and sworn to before me, the undersigned, a Notary Public, this.....day of....., 191....

.....
Notary Public.

My commission expires.....

ORDER OF COUNTY SUPERINTENDENT FOR CHANGING SITE OF SCHOOLHOUSE.

State of Indiana } ss:
County }

To.....Township Trustee of.....Township, ...County, State of Indiana:

Whereas, On....., 19....., a petition was filed in this office asking that the schoolhouse in District No.... of..... Township be removed to and located upon the following site:.....
.....
.....
.....

And, Whereas, After hearing evidence in the above cause at my office on ....., 19...., at the hour of.....,
I find that said petition is in proper form, that legal notice has been given, that a majority of the patrons of the above named School District No..... of.....Township..... County, State of Indiana, have signed said petition, together with the trustee of said.....Township, and I further find that all the matters set forth in the said petition are true. Now, therefore, it is ordered and the trustee of said.....Township is hereby instructed to remove said school house from its present site to the location described above; or, if it be found necessary to erect a new school house, he is hereby instructed to cause the same to be erected upon the proposed new location as described above.

Witness my hand and the seal of this office this.....day of ....., 19....

.....
County Superintendent of School for.....County.

CHAPTER XXXV.

TEACHERS' PENSIONS.

A. State Wide Law.

SEC.
920. Teachers' pensions—Fund created.
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B. Indianapolis Law.

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959. Teachers' pension fund—Terre Haute—Board of commissioners.
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D. Cities from 20,000 to 100,000 population.

970. Teachers' pensions—Cities 20,000 to 100,000—Board.
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976. Years of service—How computed.
977. Definition.
978. Election of commissioners—By-laws.
979. Pensions exempt from attachment.
980. Definition of "Teacher."

A. State Wide Law.

[Acts 1915, p. 658.]

920. Teachers' Pension—Fund Created. 1. That there shall be and is hereby created, a fund to be known and designated as the Indiana state teachers' retirement fund, to be used and applied in the payment of annuities to persons engaged in teaching or in the supervision of teaching in the public schools of the state after stated periods of service, or for such other causes and under such conditions as are hereinafter set forth.

921. Fund Consists of. 2. The Indiana state teachers' retirement fund shall consist of:

1st. A permanent fund.

Said permanent fund shall be made up of: (a) All gifts, grants, devises, and bequests in money, property or other form, which the board of trustees of said fund may be authorized and empowered to receive; (b) all other money or property which may from any other source become a part of this fund, and no part of said permanent fund shall be expended, except the interest and income thereon and therefrom.

2nd. A current fund.

Said current fund shall be made up: (a) All interest on investments or deposits of permanent or current funds. (b) Assessments on teachers' salaries as hereinafter provided. (c) Semi-annual apportionments, under conditions named in this act, from the proceeds derived from the state school tuition tax, of such additional amounts as are sufficient to meet all annuities, benefits and other expenses provided for under this act, in excess of funds derived from the two above named sources.

922. Board of Trustees—Control. 3. The control and management of the Indiana state teachers' retirement fund shall be vested in a board of trustees to be known and designated as the board of trustees of the Indiana state teachers' retirement fund.

Said board shall be composed of five members designated and appointed as follows: The state superintendent of public instruction, the auditor of state, and the attorney-general of the state, who shall each be ex-officio a member of said board. The remaining two members shall be appointed by the Governor of the state, shall be from different counties of the state, shall be persons engaged in teaching or in the supervision of teaching, and, except in cases of first appointments in June, 1915, shall be persons who have come under the provisions of this act.

Appointments of trustees by the Governor shall be made between the 1st and 15th days of June, the first appointments to be made in June, 1915. The terms of office of trustees so appointed shall begin on the first day of August following their appointment, and, except in case of the first appointments, shall be for three years from and after that date. In making the first appointments, the Governor shall appoint one member for two years and one for three years. Vacancies in the board of trustees caused by the death or resignation of appointive members shall be filled by the Governor for the unexpired terms. All members shall serve until their successors are appointed and have qualified.

923. Organization of Board. 4. Said board of trustees shall meet for the first time on the first Monday in August, 1915, in the office of the state superintendent of public instruction. The state superintendent of public instruction shall notify members of said meeting and act as temporary chairman thereof.

Said board of trustees of the Indiana state teachers' retirement fund shall organize by election from its members a president, a vice-president, and a secretary, who shall constitute the officers of the said board and each of whom shall serve for a period of one year, or until his or her successor is regularly elected and qualified. It shall also be within the province of said board to

employ assistant secretaries or clerks from outside its membership if the clerical work of the board should make such action necessary.

Annually thereafter on the first Monday in August each year, the board shall meet and organize by the election of officers as above. Special meetings may be held upon the call of the president or upon the signed call of any three members of the board.

A majority of the board shall constitute a quorum at any meeting for the purpose of transacting business.

924. State Divided—Units. 5. For the purpose of the administration of this act the state shall be divided into units as follows: Each city with a population of 5,000 or more according to the last preceding United States census shall constitute a unit, each county of the state shall constitute a unit and each public state normal school of the state supported by public money and devoted to the preparation of teachers, shall constitute a unit or any other public state educational institution of this state provided for under this act supported wholly by public money and whose teachers devote their entire time to teaching, shall constitute a unit, for the administration of this act. Each city or town of the state with a population of less than 5,000 according to the last preceding United States census, shall be considered as a part of the county unit in which it is located and each city having a population of 5,000 or more shall be considered as a unit separate from the county in which it is located.

925. Units Petition. 6. Any one of the above described units shall come under the provisions of this act whenever a majority of the teachers regularly employed in the public schools of said unit, together with a majority of the school officials of said unit, shall petition therefor to the board of trustees of the Indiana state teachers' retirement fund. Such petition must be accompanied by the applications regularly filled out of all teachers so petitioning to become beneficiaries under this act. *Provided, however*, That presidents of boards of school trustees of cities having a population of 5,000 or more shall not be included in a petition from the school officials of the county unit in which such city is located.

926. Acceptance of Act. 7. Any school corporation of the state (hereinafter called a unit) which at the time of the passage of this act has, in pursuance of any statute of this state, a teachers' pension or annuity system, may, if such unit so elects, come under the operation of this statute. For that purpose such unit shall present to the board of trustees of the Indiana state teachers' retirement fund (hereinafter in this section called the board) a petition to be admitted, which petition shall be signed by a majority of the ten active teachers regularly employed by such unit and who are then contributors to the local pension fund, and concurred in by the school trustees or the other governing body of the school corporation of such unit, and a majority of the board of commissioners of the teachers' retirement fund, if any, of said unit, as expressed in formal corporate action, and shall concurrently pay, transfer, make over and assign to the board all moneys, credits and other property belonging to the local unit's pension or retirement department, including, when collected, the proceeds of any tax theretofore levied for the benefit of such local pension department. If the value of the moneys

and property so transferred, exclusive of such then levied but uncollected taxes, shall not aggregate a sum as great as the aggregate of all payments up to that time made to the local pension fund by the teachers of such unit still at that time regularly employed in its schools, then, at the time of making such transfer of funds, the unit shall supplement such value by the sum necessary to make up such deficit. Such unit shall, at the same time, deliver to the board its records concerning its teachers who are under the operation of its local pension fund, and also the applications of such teachers for membership under such local fund, and shall at the same time deliver an application from each such petitioning teacher to become entitled to the benefits of the provisions of this statute and of the Indiana state teacher's retirement fund and by any others of the unit who desire to apply. Teachers whose records are so transferred shall then be given credit under this act for years of service equal to that to which they were entitled because of assessments paid under the local pension or annuity act from which their records were transferred. The unit shall at the same time furnish to the board of trustees the names, addresses and records of all persons at the time entitled to receive and receiving annuities from its local pension fund. The annuities under the Indiana state teacher's retirement act of all teachers already receiving or entitled to receive annuities or benefits under the pension or annuity system so transferring them shall be and remain the same as such teachers were receiving or would have received under the pension or annuity system from which they were transferred. If any part of the moneys or property of the local pension fund so transferred shall at the time of transfer, and in pursuance of law, be a "permanent fund" the same shall, after transfer, remain a part of the permanent fund in the hands of the board, the income only of which shall be applied, agreeably to the provision of this statute, to the use and benefit of such unit only. As soon as the unit shall have complied with the provision of this section, the title to the local pension fund property and assets of such unit shall, *ipso facto*, by operation of law, pass to and vest in the board, and thereafter said unit shall take no step in conducting its local pension fund except such as may be necessary to collect and pay over to the board any tax theretofore levied but not fully collected. *Provided*, That nothing in this section shall be construed as impairing or interfering with any retirement system now operative in this state.

927. State Institutions—Educational—Acceptance of Act. 8. Whenever a majority of the board of trustees and a majority of the teachers of any public state normal school of this state, supported by public money and devoted to the preparation of teachers, or of any other public state educational institution of this state provided for under this act supported wholly by public money and whose teachers devote their entire time to teaching, shall petition the board of trustees of the Indiana state teachers' retirement fund to come under the provisions of this act, the said board may grant such petition, provided the petition is accompanied by the regular applications of the teachers so petitioning to accept the provisions of this act, and meet all the conditions of this act. Each such school shall then constitute a separate unit for the administration of this act. It shall then be the duty of the trustees of said school to pay to the board of trustees of the Indiana state teachers' retirement fund, semi-annually, on the first Monday in January and the first Monday in July of each year, a sum equal to one half the sum certified

by said board of trustees of the Indiana state teachers' retirement fund as necessary to meet the annuities and other expenses under this act, of that particular unit for the current year over and above the amounts received from assessments of teachers in that particular unit and from other sources as set forth in this act. Said amounts to be paid shall be taken from any funds coming in to the hand of said board of trustees of said state school for the payment of teachers for instruction in said school.

928. Duties of Trustees. 9. The president of the board of trustees of the Indiana state teacher's retirement fund shall preside at the meetings of the board and perform all other duties required under this act and those usual to such office. The vice-president shall perform all duties of the president in his absence. It shall be the duty of the secretary to keep a true and accurate account of the proceedings of said board of trustees. And to have the custody and care of all books and papers pertaining to and connected with the administration of this act and for the care of which other provisions are not made in this act.

Said board of trustees of the Indiana state teachers' retirement fund shall have full power to adopt and enforce all necessary by-laws and regulations for the government and administration of this act not inconsistent with the same. Said board may sue and may be sued under the name and style of the board of trustees of the Indiana state teachers' retirement fund, shall have the authority to summon and examine witnesses in the adjustment of claims: shall have power to meet any emergencies which may arise in the administration of its trust; and shall have discretionary power in determining all matters pertaining to its trust not specifically provided for in this act.

Members of said board shall serve without pay, except that all traveling and all other necessary expenses incurred by them in attending meetings and performing other necessary duties of their office, together with necessary clerical assistance and other expenses incurred by the board in the administration of this act shall be paid, upon proper order, from current fund, and such expense shall be pro-rated to the several units operating under this act, on the basis of the actual number of teachers having come under the provisions of this act and who are paying assessments in accordance herewith in such units.

929. Fund in Control of Board. 10. The board of trustees of the Indiana state teachers' retirement fund shall have charge of and administer the said retirement fund. Said board of trustees shall have charge of all property belonging to said fund and may take by gift, grant, devise, or bequest, any money or property coming into said fund, and any such gift, grant, devise, or bequest may be absolute, or upon condition that only rent, profits, or income arising from the same shall be applied to the uses and purposes of said fund.

Such board of trustees shall be authorized to take such a gift, grant, devise, or bequest, under and by the style of the board of trustees of the Indiana state teachers' retirement fund, and to hold the same, and unless otherwise provided by the condition of the trust, assign, transfer, or sell the same, whenever proper and necessary for the benefit of the retirement fund. The board shall receive and receipt for all such gifts, grants, devises, bequest,

and all other funds belonging to or coming into the permanent fund, judiciously invest the same and promptly turn over all receipts therefrom to the regularly constituted custodian thereof.

The board shall also receive and receipt for all moneys coming into the current fund, turn the same over to the custodian thereof and direct their disbursement, no payments being allowed therefrom except upon the express written order of the board officially signed by its president and secretary.

The board shall report annually the condition of the funds in its charge, the names of the several units of the state that have accepted the provisions of this act, and an itemized statement of the receipts and expenditures on account of the fund for each unit accepting the provisions of this act; a list of the beneficiaries of the current fund; an estimate of amounts required for annuities, benefits and other expenses for the following year, and the approximate amounts required to be apportioned to the different units from the proceeds of the tax for the state school tuition fund to meet necessary expenses over and above receipts from the other sources named. Said report shall be submitted to the Governor on or before the 15th day of August of each year. Said report may also be printed and distributed to all persons entitled to an interest in said funds and who are in any way bound by the provisions of this act.

930. State Treasurer—Custodian of Funds. 11. The treasurer of the State of Indiana shall be the custodian of all moneys, papers, and securities belonging to or being a part of either the permanent or current funds of the Indiana state teachers' retirement fund. He shall deposit, take care of, and report such funds in accordance with the provisions of this act and of the Indiana state depository law, and shall pay the same only upon the order of the board of trustees of the Indiana state teachers' retirement fund, properly signed by the president and secretary thereof.

All interest accruing on funds of any kind belonging to said fund shall go into the current retirement fund.

It is hereby expressly provided that no annuity or benefit of any kind authorized by this act shall be due or be paid prior to January 1st, 1917.

931. Applications for Pension. 12. The board of trustees of the Indiana state teachers' retirement fund shall receive and pass upon all applications for annuities or benefits under this act. It shall have power to summon witnesses, order medical examinations, select or approve physicians for such examinations, and conduct all reasonable investigations to enable it to determine intelligently the justice of any claim submitted.

932. Teacher's Assessed. 13. Every teacher coming under the provisions of this act shall be assessed upon his or her salary for the school year in which such assessment is made as follows: For the first fifteen years of teaching service, $10.00 per year; for the next ten years of teaching service, $20.00 per year; for the next ten years of teaching service, $25.00 per year; for the remaining years of teaching service up to and including the fortieth year of such service, $20.00 per year. *Provided*, That should a teacher coming under the provisions of this act teach longer than forty years, no assessment shall be collected from such teacher for time taught beyond the period of forty years.

All assessments upon teachers' salaries provided for in this act shall be paid in equal instalments corresponding to the second, fourth and sixth months of the school year in which the salaries upon which such assessments are made are paid.

From and after August 1, 1915, it shall be the duty of the board of trustees of the Indiana state teachers' retirement fund to report semi-annually to each official charged with the payment of salaries to teachers in each unit in the state that has elected to come under the provisions of this act, the name of each teacher under this act receiving payment from such paying official. Said notification shall be given on or before the first day of October and the first day of February of each year.

It shall then be the duty of such paying official, at the time of payment of salaries to such teachers for the second, fourth and sixth school months of each school year, to deduct from the salaries of each of the teachers whose names have been so reported, an amount equal to one-third of the total amount due from said teacher for the entire school year as assessments under this act, and said paying official shall between the first and fifteenth days of January and June of each year, pay over to the board of trustees of the Indiana state teachers' retirement fund all money, that has come into his hands from assessments on teachers' salaries as provided for in this act. Whatever credits may be due any teacher because of assessments paid under this act shall be credited to the unit under this act in which he or she is working.

933. Payment of Arrearages. 14. Teachers coming under the provisions of this act shall be required to pay arrearages at the above rates, for such time of service, from one (1) to forty (40) years inclusive, as they are authorized to have recognized under the provisions of this act, *Provided*, that any teacher entitled under the provisions of this act to credit for one or more years of teaching service at the time when he or she elects to accept the provisions of this act, may waive his or her right to such credit and pay only current rates from the time when the membership begins, and receive no credit for previous service. Such arrearage may be paid in cash during the first year, or may be paid in five equal annual instalments with interest at the rate of five per cent per annum, payable annually, upon the deferred instalments. In case the latter option is taken, interest upon the deferred instalments shall commence at the end of the first year after electing to accept the provisions of this act, *provided, further*, That in case any teacher is retired before he or she has paid in assessment a sum equal to one-half of the maximum annuity to which he or she would be entitled, than and in that case there shall be deducted from the annuity to be paid to such retired teacher during the first year, such sum as will make the total amount paid by such teacher one-half of the maximum annuity to which he or she is entitled, and the remainder of fees or arrearages due or to be paid by such retired teacher shall be payable in instalments as hereinbefore set forth.

934. Record of Units and Teachers. 15. The board of trustees of the Indiana state teachers' retirement fund shall keep an accurate record of all units of the state that have accepted and are working under the provisions of this act; the number and names of all teachers in each who have

me the conditions of becoming beneficiaries under the same; the amount of ass ssments paid by each teacher, together with the total amount paid from eac unit; the number of teachers receiving or entitled to receive annuities, or benefits of any kind from the Indiana state teachers' retirement fund, tog ther with the amounts due or to become due to each unit and the total am unt due as annuities from each unit. Said board of trustees shall then ap portion to the several units accepting and working under this act all current fu ds in its hands outside of funds collected as assessments from teachers an over and above amounts necessary for actual running expenses as pro-vid d in this act, said apportionment being based upon the actual number of tea hers having come under the provisions of this act and who are paying ass ssments in accordance therewith.

The board shall then certify to the state superintendent of public in-str tion the amount required by each unit, over and above the amounts cre lited to it from assessments paid by its teachers and the amount appor-tio ed to it from the other current funds under this act, to meet the demand un er this act upon that particular unit for the following fiscal year. It sh ll then be the duty of the state superintendent of public instruction, when ma king his semi-annual apportionments of the proceeds derived from the sta e school tuition tax in January and in June of each year, to withhold from eac h unit so certified by the board of trustees of the Indiana state teachers' ret rement fund a sum equal to one-half the amount certified as necessary to meet the demands of that unit, under this act, over and above the proceeds der ived by said unit from other sources named in this act. The state super-int endent of public instruction shall certify the amount so withheld to the cou nty auditor of the county in which said unit is located and shall at once tur n said amount over to the trustees of the state teacher's retirement fund.

Provided, That for such state normal schools and other public state educa-tio al institutions of this state included under this act, as do not receive the ir public money through the county auditor and which come under the pro visions of this act, the board of trustees of the Indiana state teachers' ret irement fund shall send the required notices to the state auditor instead of to the state superintendent of public instruction. The state auditor shall the n withhold, from any money to which such schools may be entitled for the payment of teachers' salaries, the amounts shown by said notices to be req uired in addition to the assessments on teachers' salaries in such schools to meet the requirements of teachers' annuities under this act, and semi-an nually between the first and fifteenth days of January and June of each year the state auditor shall pay to said trustees of the Indiana state teachers' ret irement fund all moneys so withheld by him to date under provisions of this act.

935. Investment of Funds—Cash on Hand. 16. The board of trus-tees of the Indiana state teachers' retirement fund shall determine what part of said fund may be safely invested and how much shall be retained for the immediate needs, demands and exigencies of said fund. Such investments shall be made: (1) In interest-bearing bonds of the United States; or of the State of Indiana, or in any bond lawfully issued by state or county, township, city, or other municipal corporations within the United States; (2) loans

secured by first mortgage upon improved real estate, which loans shall not be in excess of fifty per cent. of the appraised value of such real estate. All bonds, mortgages, and other securities shall be deposited with and remain in the custody of the custodian of said fund, who shall collect all interest due thereon and all income therefrom as the same shall become due and payable, and deposit same to the credit of the current fund of the Indiana state teachers' retirement fund.

936. Amount of Pensions. 17. Said Indiana state teachers' retirement fund shall be used and devoted in the manner and for the purposes as follows: Any person coming under the provisions of this act who shall have rendered thirty-five years or more of teaching service in the public schools, twelve of which may have been in public schools, outside of the state, who ceases to be in the employ of the public schools of the state from any cause, shall be entitled to an annuity in accordance with the following schedule:

For 35 years of service	$600
For 36 years of service	620
For 37 years of service	640
For 38 years of service	660
For 39 years of service	680
For 40 years of service	700

Provided, That any teacher in the service of the public schools of the state may be temporarily or permanently retired for disability on an annuity in accordance with the schedule in this act after he or she shall have served as such teacher as per the conditions of this act for a period of twenty-five years or more; *and Provided further*, That when a teacher is retired for any disability before he or she has met with the conditions for permanent retirement under this act, such retirement shall continue only until such disability is relieved or removed, and no further annuity or benefit shall be paid to such teacher after medical examination made on demand of the board of trustees of the Indiana state teachers' retirement fund and at the expense of said teacher shall establish that such disability is removed. No benefit for disability shall be paid for less than one-half of a school year.

The schedule according to which disability benefits shall be paid follows:

For 25 years of service	$350
For 26 years of service	375
For 27 years of service	400
For 28 years of service	425
For 29 years of service	450
For 30 years of service	475
For 31 years of service	500
For 32 years of service	525
For 33 years of service	550
For 34 years of service	575

Such annuities shall be paid upon the order of the board of trustees in four equal payments as follows: On January first, April first, July first and October first, of each year.

In the event that any teacher coming under the provisions of this act for any reason leaves the services of the public schools of any unit of this state operating under this act, before said teacher is entitled to receive annuities under this act, such teacher shall be entitled to withdraw from the treasury of the Indiana state teachers' retirement fund, such a sum as will equal all payments made by such teacher into the treasury of this fund without interest.

Provided, That any benefits which such teacher may have received for disability prior to the time of such withdrawal, shall be deducted from amount to be so withdrawn.

Provided, further, That in the event that such a teacher subsequently returns to the employ of a school of a unit under this act, such teacher shall be required to pay to the fund of the unit in which such teacher is employed the amount so withdrawn with interest thereon, at the rate of five per cent. per annum from date of withdrawal, such sum to be paid within one year from the date of his or her return to service in the schools of the state. In the event of the death of any teacher coming under the provisions of this act, before such teacher has been retired upon an annuity, then and in that case the heirs or legatees of such deceased teacher shall be entitled to a sum out of said fund equal to the sum paid into said fund by such deceased teacher, without interest, and after deductions for whatever benefits have been paid such teacher have been made.

937. Computing Years of Service. 18. In computing years of service, as provided in this act, the board of trustees may include service as public school teacher rendered outside of the state, not, however, in excess of twelve years, as a portion of such services necessary before any teacher shall be entitled to any of the benefits of this act, *Provided*, That nothing in this section shall affect the amount or amounts to be paid into such retirement fund by teachers before being entitled to an annuity. Any teacher may be given a leave of absence for study, professional improvement, or temporary disability, not exceeding one year in seven, and shall be regarded as a teacher and entitled to the benefits of this act, *Provided* that during such absence he or she continues to pay into such fund the amount of assessment payable by such teacher as provided by this act.

Credit shall be given under this act for all years of service rendered under its provisions before, as well as after, the taking effect of this act. And the full term or year of school in the corporation in which such service was rendered shall constitute a year of service under this act.

938. Attachment—Pensions Exempt. 19. All the annuities granted and payable out of said state teachers' retirement fund shall be and are exempt from seizure or levy upon attachment, supplemental process, and all other process; and such annuities or any payment of the same shall not be subject to sale, assignment, or transfer by any beneficiary; and any such sale assignment or transfer shall be absolutely void.

939. Teachers Eligible to Pension. 20. The beneficiaries of this fund shall include any legally licensed and regularly employed teacher, teacher-clerk, supervising principal, principal, supervisor, superintendent of schools, person in charge of teaching any special department of instruction

or training, or any other teacher or instructor legally licensed and regularly employed as such in any of the public schools of this state; or in any public state normal school of the state, supported by public money, and devoted to the preparation of teachers; or the qualified and regularly employed teachers, principals, superintendent and others named above in any other public state educational institution of this state supported wholly by public money and whose teachers devote their entire time to teaching, *provided, however*, That no institution which is operating under any pension or annuity system not provided for by laws of the State of Indiana, may come under the provisions of this act.

940. Pensions Withdrawn. 21. Whenever any person receiving any benefits from said fund shall be convicted of any felony or of any misdemeanor of which he or she shall be adjudged to be imprisoned; or shall fail to report for examination as required herein, unless excused by the board of trustees of the Indiana state teachers' retirement fund, or shall disobey the requirements of said board of trustees in respect to said examination, then such board may order that the annuity allowed and paid to him or to her shall cease.

941. Subsequent Applications. 22. Any teacher teaching in any unit of the state at the time such unit elects to come under the provisions of this act, who does not at that time make application as provided under this act, may make such application at any subsequent time, provided that with such application there is submitted full payment of all arrearages for time to which such teacher is entitled as credits under this act, together with five per cent. compound interest on same from the date at which such teacher had first opportunity to come under the provisions of this act.

B. Indianapolis Law.

[Acts 1907, p. 268. Approved March 9, 1907.]

942. Teachers' Pension Fund—Trustees. 1. In every city in the State of Indiana having a population of 100,000 or more, according to the last preceding United States census, there shall be, and is hereby, created a teachers' pension fund, which shall be governed and managed by a board of trustees, to be composed of seven members, as follows: Three members of the board of school commissioners of such city, to be selected or appointed annually by such board, the superintendent of public schools, one principal and two teachers regularly employed in the public schools of such city. Said principal and teachers shall be selected at a meeting of the public school teachers of such city on the third Saturday of March, 1907, in such manner and at such place or places as shall be determined and designated by the board of school commissioners of such city; and thereafter there shall be selected on the third Saturday of March of each year one principal and two teachers as members of such board of trustees. The trustees shall hold their offices until their successors shall be selected or elected as above set forth. In the event of a vacancy upon said board occasioned by the death, resignation or disability of either of said principal or teachers, then the public school teachers of said city shall, within a reasonable time, upon the call of the president of said board of trustees, hold a special meeting and elect a successor

or successors. A majority of said trustees shall constitute a quorum for the transaction of business pertaining to said pension fund. Said trustees shall receive no pay for their services as such, except the secretary and assistant treasurer, each of whom may be paid such sum for services as may be fixed by the board of trustees: *Provided, however*, That if any one shall act as such secretary or assistant treasurer who shall receive any of the benefits of said pension fund, as hereinafter provided, the amount of the salary so received by such secretary or assistant treasurer shall be deducted from the amount to which he or she would otherwise be entitled as a beneficiary under said fund. (§6555a.)

943. Officers—Duties. 2. Said board of trustees shall elect from among its number a president, vice-president and secretary. The president shall preside at the meetings of the board and perform all other duties usual to such an office. The vice-president shall perform the duties of the president in his absence. It shall be the duty of the secretary to keep a true and accurate account of the proceedings of such board of trustees and of the teachers of such city, when acting upon matters with relation to said fund, and to turn over to his or her successor all books and papers pertaining to such office. The secretary of the board of school commissioners of such city shall act as assistant treasurer, and it shall be his duty to keep a true and correct statement of the account of each member with said pension fund, to collect and turn over to the treasurer of said board all moneys belonging to said fund, and to render to the board a monthly account of his doings. He shall furnish bond in such amount as shall be determined and required by said board of trustees, and the board of school commissioners of such city shall allow him such compensation for his services as it may deem proper. The treasurer of such city shall be ex officio the treasurer of said board of trustees, and he shall receive and hold all moneys belonging to such teachers' pension fund; he shall have the custody of all notes, bonds and other securities belonging to said fund, and shall collect the principal and interest of the same and shall be liable on his bond as such city treasurer for the performance of all the duties imposed upon him by this act and for the faithful accounting of all moneys and securities, including both principal and interest, which may come into his hands and which shall belong to such pension fund. And he shall keep a separate account which shall show at all times the true condition of such fund. Said treasurer shall, upon the expiration of his term of office, account to said board for all moneys, notes, bonds and other securities coming into his hands, and for the interest, income, profits, rentals and proceeds of and from the same, and he shall turn over to his successor all moneys, notes, bonds and other securities belonging to said fund. The secretary, treasurer and assistant treasurer shall make a full, true, and accurate report of their offices and trusts at each annual meeting of such teachers in March of each year. Their books shall at all times be open to inspection or examination by any member of said board of trustees. (§6555b.)

[Acts 1915, p. 128.]

944. Teachers—Pension Fund—Control—Assessment—Levy. 3. Such board of trustees shall have full charge and control of the teachers' pension fund of such city, with power to adopt and enforce all needful regula-

tions governing the same, not inconsistent with this act. Said fund shall be derived from the following sources:

First. All moneys that may be given to said board of trustees or to said fund or to the board of school commissioners of such city, for the use of said board of trustees of teachers' pension fund, by any person or persons. Such board of trustees may take by gift, grant, devise or bequest, any money, choses in action, personal property, real estate or any interest therein, and any such gift, grant, devise or bequest may be absolute or upon conditions that only the rent, profits and income arising from the same shall be applied to the uses and purposes of said fund. Such board of trustees shall be authorized to take such gift, grant, devise or bequest under and by the style of the board of trustees of the teachers' pension fund, of such city, and to hold the same or assign, transfer or sell the same, whenever proper and necessary under and by such name.

Second. Every teacher shall be assessed upon his or her salary as follows: One per cent per annum (but not more than $10) upon the salary of every teacher who shall not have taught in excess of fifteen (15) years; and two per cent per annum (but not to exceed $20) upon the salary of every teacher who shall have taught longer than fifteen (15) years: *Provided, however*, That such assessment shall not be made prior to the first day of September, 1907. And the assistant treasurer of such board of trustees shall prepare a roll of each of said assessments and place opposite the name of every teacher the amount of assessment against him or her, and shall furnish a copy of such roll to the treasurer, and the treasurer of said board shall, in November and April of each school year, deduct and retain out of the salary going to such teacher the amount of such assessment, and shall give him or her credit for the same to the credit of said teachers' pension fund. Every teacher of such city receiving a salary of four hundred fifty dollars ($450) a year or more shall pay such assessment, and in becoming a teacher he or she shall be conclusively deemed to undertake and agree to pay the same, and to have such assessment deducted from his or her salary as hereinbefore provided.

Third. The board of school commissioners of such city shall levy each year, in addition to all other taxes authorized by law, a special tax of one and one-fourth cents upon each one hundred dollars of taxable property in the city, which sum shall be collected as other taxes are collected by law, and which shall be credited by the treasurer of such city to the said teachers' pension fund, and shall not be used or devoted to any other than the purpose of said fund: *Provided, however*, Said board of school commissioners may reduce said special tax to one cent upon each one hundred dollars of taxable property after a period of ten (10) years after September 1, 1914, if in its opinion, the accumulated fund derived as aforesaid is sufficient to justify such action. Nothing in this act shall be deemed to take from said board of school commissioners the powers now given to said board in relation to the levy of taxes under existing statutes.

945. Investment of Funds. 4. The board of trustees of such teachers' pension fund shall determine what part of said fund may be safely invested, and how much shall be retained for the immediate needs, demands and exigencies of said fund. Such investment shall be made: (1) In interest bearing

bonds of the United States, or of the State of Indiana, or in any bond lawfully issued by any state or by any county, township, city or other municipal corporation, either within or without the State of Indiana; (2) loans secured by mortgage upon real estate within the county wherein such city is located, which loans shall not be in excess of fifty per cent of the appraised value of such real estate. All bonds, mortgages and other securities shall be deposited with and remain in the custody of the treasurer of said board, who shall collect all interest due thereon, and all the income therefrom, as the same shall become due and payable.

946. Sinking Fund. 5. The board of trustees of such teachers' pension fund shall establish a sinking fund, to the credit of which shall be put and deposited all gifts, grants, devises and bequests, and the unexpended balance remaining at the expiration of each fiscal year. And such sinking fund shall be and remain a permanent fund, and no part thereof shall be expended except the interest and income thereof and therefrom: *Provided, however,* That one-half of the amount added to such sinking fund during any year may be used if necessary, during the year immediately following.

[Acts 1915, p. 129.]

947. Fixing Pensions. 6. Said teachers' pension fund shall be used and devoted in the manner and to the purposes following:

First. The maximum pension to be paid any teacher shall be six hundred dollars ($600.00) per annum, which amount shall be based upon a service of forty (40) years as such teacher and every pensioner and beneficiary of said fund shall be entitled to and shall receive such percentage of said sum of $600 as the number of years of teaching of said pensioner and beneficiary, shall bear to the term of forty years, subject, however, to all the provisions of this act.

Second. Any aged, infirm, diseased or disabled teacher, who is now or hereafter may be teaching in the public schools of such city, having served as such teacher for not less than fifteen years, shall be entitled to receive a disability pension: *Provided,* Such board of trustees shall find that he or she is entitled to the same by reason of such age, disease, infirmity or disability, and after such applicant for a pension shall have been examined by a physician selected for such purpose by said board of trustees, the examination fee or charge of such physician shall be paid by the applicant: *And, provided further,* That no such pension shall be paid until any sick pay allowed or provided for by the board of school commissioners of such city shall have ceased.

Third. Any teacher who is now or hereafter may be teaching in the public schools of such city, and shall have taught for not less than twenty-five (25) years, may be pensioned upon application to said board of trustees, or may be pensioned by such board without such application and shall thereafter receive a pension during the remainder of his or her life, subject, however, to all the conditions contained in this act: *Provided,* That such pensioner shall have paid into said fund, by way of assessment or otherwise, not less than one-third (1-3) of the amount to which he or she shall be entitled per annum as a pension. And in order to make up such one-third, the board of trustees may order the treasurer to deduct one-half thereof from each of the

first two years of such pension: *Provided, further*, Any teacher who has taught not less than twenty-five (25) years as aforesaid but who shall have retired prior to the taking effect of this act, towit, on the ninth day of March, 1907, shall be entitled to the benefits of said pension fund in the same amount and upon the same conditions as if they were still teaching at the time said act took effect on March 9, 1907: *Provided, however, further*, That inasmuch as such teachers never contributed by way of assessment to said fund, never having had an opportunity to do so, that the amount of their pension benefits shall be paid exclusively out of the moneys contributed by such city from the taxes, and no part of said fund contributed by the assessment of teachers shall be used for paying pensions to such teachers; nothing herein contained shall be construed as entitling teachers who retired prior to March ninth, 1907, to the disability pension, as provided in clause two of this section; nor shall anything herein be construed as entitling said teachers who retired prior to March 9th, 1907, aforesaid, to a pension prior to the passage of this amendment. *Provided further*, That no pension of any kind provided herein for teachers who retired prior to March 9, 1907, shall accrue, or be payable or paid, prior to June 1, 1916, when the additional levy becomes available.

948. Years of Service—How Computed. 7. In computing years of service as provided in this act, the board of trustees may include services as a public school teacher rendered outside of such city, not, however, in excess of five (5) years, as a portion of such services necessary before any teacher shall be entitled to any of the benefits of this act: *Provided, however*, That such teacher shall pay assessments based upon the first annual salary received by him or her in the schools of such city for the said years of service elsewhere, in addition to the assessments paid by such teacher while in the service of such schools, before receiving any retirement pension: *And, provided further*, That nothing in this section shall affect the amount or amounts to be paid into such pension fund by school teachers before being entitled to become a pensioner. And any teacher may be given leave of absence for study, professional improvement or temporary disability not exceeding one year at any one time, and shall be regarded as a teacher and entitled to the benefits of this act: *Provided*, That during such absence he or she continues to pay into such fund the amount of assessment payable by such teacher the last preceding such leave of absence. (§6555g.)

949. Pensioners—Re-Examination. 8. After any teacher shall have been pensioned, by reason of injury, disability or disease, the board of trustees shall have the right at any time to cause such teacher again to be brought before such board and examined by its physician, and also to examine other witnesses, for the purpose of ascertaining whether such injury, disability or disease shall still continue and whether such teacher shall remain on the pension roll. Such teacher shall be entitled to notice and to be present at the hearing of such evidence; shall be permitted to propound any question pertinent or relevant to such matter, and shall also have the right to introduce evidence upon his or her own behalf. Such teacher and all witnesses shall be examined under oath, and any member of such board of trustees is hereby authorized and empowered to administer such oath. The decision of such board of trustees shall be final and conclusive, and no appeal shall be allowed therefrom, nor shall the same be reviewed by any court or other authority:

Provided, however, That every pensioned teacher shall report to the superintendent of public schools of such city whenever required so to do. And said superintendent may assign such teacher to such service or employment as may be within his or her power to perform, in the judgment of such superintendent of public schools and of the examining physician employed by said board of trustees. And during the time of such employment such teacher shall receive the regular salary therefor, which shall be credited to and deducted from the amount payable to such teacher from said pension fund. And should any pension teacher recover from his or her injury, disease or disability, and again be fit for regular duty, then such teacher may again be regularly employed, and during the time of such employment, he or she shall cease to be entitled to any payment out of said pension fund because of the injury, disease or disability on account of which such teacher was originally retired. (§6555h.)

950. Service Pension. 9. Any teacher applying to be pensioned by reason of length of time of service as in this act provided, shall be pensioned and retired without any medical examination, nor need he or she be under any physical disability, and from the time of such pension and retirement such teacher shall not be required to render further services as such teacher, nor shall he or she be deprived of the benefits herein provided, except for any cause contained in section 16 of this act. (§6555i.)

951. Computing Time. 10. In computing time under the provisions of this act, such time shall include service rendered before, as well as after, the taking effect of this act. (§6555j.)

952. Trustees—By-laws. 11. The board of trustees shall have the power and authority to make all necessary by-laws providing for the manner of the election of such trustees, to be elected as in this act provided, the counting and canvassing of the votes for the same, their meetings, for the collection of all moneys and other property coming or belonging to said fund, and all other matters connected with the care, preservation and disbursement of the same, and the proper execution of the purposes and provisions of this act. And any pension authorized by the board under this law shall be subject to reduction by said board of trustees whenever in its judgment the condition of the pension fund, the financial or other conditions of the pensioner or any other circumstances render such reduction advisable, proper or necessary, and any pension so reduced may thereafter be restored or increased, as such board may deem best. (§6555k.)

953. Payments—When Refunded in Part. 12. Any teacher who shall cease to teach in the public schools of such city before receiving any benefit from the fund, shall be entitled to the return of one-half of the amount, without interest, which shall have been paid into said pension fund by such teacher: *Provided, however*, Should such teacher thereafter again teach in the public schools of such city, he or she shall refund to said pension fund the amount so returned to such teacher within one year from the date of his or her return to service in the schools. And should any teacher die before receiving any of the benefits or pensions by this act provided, the board of trustees shall pay to such teacher's heirs or estate, or either or any of them, as

it shall see fit, one-half the amount without interest which shall have been paid into said pension fund by said teacher. (§6555l.)

954. Deficiency—Pro Rata Payments. 13. If at any time there should not be sufficient money in or to the credit of said teachers' pension fund to pay all claims against it in full, then and in such event, an equal percentage shall be paid upon all such claims to the full extent of the funds on hand, until such pension fund shall be sufficient to pay all claims against it in full. (§6555m.)

955. Place of Payment. 14. All pensions herein provided for shall be paid by the treasurer of the board of school commissioners at his office at the same time and in such instalments as the teachers of such city shall be paid: *Provided, however*, That no pension of any kind whatsoever provided for in this act shall be paid prior to October 1, 1908. (§6555n.)

956. Pensions Exempt from Seizure. 15. All pensions granted and payable out of said teachers' pension fund shall be and are exempt from seizure or levy upon attachment, execution, supplemental process, and all other process, whether mesne or final; and such pensions or any payment of the same shall not be subject to sale, assignment or transfer by any beneficiary, and such transfer shall be absolutely void. (§6555o.)

957. Cancellation of Pension. 16. Whenever any such person who shall have received any benefit from said fund shall be convicted of any felony, or of any misdemeanor for which he or she shall be adjudged to be imprisoned, or shall fail to report for examination for duty as required herein, unless excused by the board of trustees of such city, or shall disobey the requirements of said board of trustees in respect to said examination for duty or shall fail to perform such duty as may be required of him or her if found able to perform such duty, then such board shall order that the pension allowed and paid to him or her shall cease until the further order of such board. (§6555p.)

958. Teacher Defined. 17. The term teacher as used in this act shall mean and include any principal, assistant principal, assistant superintendent, supervisor, assistant supervisor, persons in charge of any special department of instruction, and any teacher or instructor regularly employed as such by the board of school commissioners of such city. (§6555q.)

C. Terre Haute Law.

[Acts, 1913, p. 214.]

959. Teachers' Pension Fund—Terre Haute—Board of Commissioners. 1. That in every city in the State of Indiana, having a population of not less than 55,000 nor more than 60,000, according to the last preceding United States census, there shall be, and is hereby created a teachers' retirement fund, which shall be governed and managed by a board of commissioners, to be composed of five members, as follows:

The president of the board of school trustees of such city, the superintendent of public schools, one principal and two teachers regularly employed in the public schools of such city. Said principal and teachers shall be selected

a' a meeting of the public school teachers of such city on the fourth Saturday o' March, 1913, in such manner and at such place or places as shall be deter- n ined and designated by the board of school trustees of such city; and there- a ter there shall be selected on the fourth Saturday of March of each year o ie principal and two teachers as members of such board of commissioners. T he commissioners shall hold their offices until their successors shall be se- l cted or elected as above set forth. In the event of a vacancy upon said l oard occasioned by the death, resignation or disability of either of said p rincipal or teachers, then the public school teachers of said city shall, within a reasonable time, upon the call of the president of said board of commis- s ioners, hold a special meeting and elect a successor or successors. A ma- j ority of said commissioners shall constitute a quorum for the transaction of business pertaining to said retirement fund. Said commissioners shall receive no pay for their services as such, except the secretary and assistant treasurer, each of whom may be paid such sums for services as may be fixed by the board of commissioners: *Provided, however,* That if any one shall act as such secretary or assistant treasurer who shall receive any of the benefits of said retirement fund, as hereinafter provided, the amount of the salary so received by such secretary or assistant treasurer shall be deducted from the amount to which he or she would otherwise be entitled as a beneficiary. (§6555r.)

960. Duties of Board and Officers. 2. Said board of commissioners shall elect from among its number a president, vice-president and secretary. The president shall preside at the meetings of the board and perform all other duties usual to such office. The vice-president shall perform the duties of the president in his absence. It shall be the duty of the secretary to keep a true and accurate account of the proceedings of said board of commissioners, and of the teachers of such city when acting upon matters with relation to said fund, and to turn over to his or her successor all books and papers pertaining to such office. The secretary of the superintendent of schools of such city shall act as assistant treasurer, and it shall be his or her duty to keep a true and correct statement of the account of each member with said retirement fund, to collect and turn over to the treasurer of said board all moneys belonging to said fund, and to render to the board a monthly account of his or her doings. He or she shall furnish bond in such amount as shall be determined and required by said board of commissioners and the board of commissioners shall allow him or her such compensation for his or her services as it may deem proper. The treasurer of such city shall be ex-officio the treasurer of said board of commissioners, and he shall receive and hold all moneys belonging to such treasurer's retirement fund; he shall have the custody of all notes, bonds and other securities belonging to said fund, and shall collect the principal and interest of the same and shall be liable on his bond as such city treasurer for the performance of all the duties imposed upon him by this act and for the faithful accounting of all moneys and securities, including both principal and interest which may come into his hands and which shall belong to such retirement fund. And he shall keep a separate account which shall show at all times the true condition of such funds. Said treasurer, shall upon the expiration of his term of office, account to said board of commissioners for all moneys, notes, bonds, and other securities coming into his hands, and for the interest, income, profits, rentals and proceeds of and from the same, and he

shall turn over to his successor all moneys, notes, bonds and other securities belonging to said fund. The secretary, treasurer and assistant treasurer shall make a full, true and accurate report of their offices and trusts at each annual meeting of such teachers in March of each year. Their books shall at all times be open to inspection or examination. (§6555s.)

961. Pension Fund—How Controlled. 3. Such board of commissioners shall have full charge and control of the teachers' retirement fund of such city with power to adopt and enforce all needful regulations governing the same, not inconsistent with this act. Such fund shall be derived from the following sources:

First. All money that may be given to said board of commissioners or to said fund or to the board of school trustees of such city, for the use of said board of commissioners of teachers' retirement fund, by any person or persons. Such board of commissioners may take by gift, grant, devise or bequest, any money, choses in action, personal property, real estate, or any interest therein, and any such gift, grant, devise or bequest, may be absolute, or upon the condition that only the rent, profits and income arising from the same shall be applied to the uses and purposes of said fund. Such board of commissioners shall be authorized to take such gift, grant, devise or bequest, under and by the style of the board of commissioners of the teachers' retirement fund, of such city, and to hold the same, or assign, transfer or sell the same, whenever proper and necessary, under and by such name.

Second. Every teacher electing to accept the provisions of this act shall be assessed upon his or her salary as follows: For the first twelve years of teaching service, $10.00 per year; for the next eight years of teaching service, $20.00 per year; for each subsequent year of teaching service, not exceeding thirty years in all, $25.00 per year. Members who have paid the fees for thirty years of teaching service, shall not be required to pay any additional fees however long thereafter they may remain in the employ of the board of school trustees. These rates shall be paid in equal payments corresponding with the second, fourth, sixth and eighth months of the year for which teachers' salaries are paid. Teachers accepting the provisions of this act shall be required to pay arrearages at the above rate with interest at 4 per cent. per annum for such time of service as they are authorized to have recognized under the provisions of this act: *Provided*, That any teacher entitled, under the provisions of this act, to a credit for one or more years of teaching service at the time when he or she elects to accept the provisions of this act, may waive his or her right to such credit and pay only current rates from the time when the membership begins, and receive no credit for previous service. Such arrearages may be paid in cash during the first year or may be paid in five equal installments with interest at the rate of 5 per cent. per annum, payable annually, upon the deferred installments; and in case the latter option is taken, interest upon the deferred installments shall commence at the end of the first year after electing to accept the provisions of this act. *Provided, further*, That in case any teacher is retired before he or she has paid in fees a sum equal to one-half of the maximum annuities to which he or she would be entitled, then and in that case there shall be deducted from the annuity to be paid to such retired teacher during the first year, such sum as will make the total amount paid by such teacher one-half of the maximum

annuity to which he or she is entitled and the remainder of fees or arrearages due or to be paid by such retired teacher shall be payable in instalments as hereinbefore set forth.

Third. The board of school trustees of such city shall levy each year, in addition to all other taxes authorized by law, a special tax of one-fourth (¼) of one mill upon each one dollar ($1.00) of taxable property in the city, which sum shall be collected as other taxes are collected by law, and which shall be credited by the treasurer of such city to the said teachers' retirement fund, and shall not be used or devoted to any other than the purposes of said fund. And nothing in this act shall be deemed to take from said board of school trustees the powers now given to said board in relation to the levy of taxes under existing statutes. (§6555t.)

962. Funds—How Invested. 4. The board of commissioners of such teachers' retirement fund shall determine what part of said fund may be safely invested, and how much shall be retained for the immediate needs, demands, and exigencies of said fund. Such investment shall be made: (1) In interest-bearing bonds of the United States, or of the State of Indiana, or in any bond lawfully issued by any state or county, township, city or other municipal corporation, either within or without the State of Indiana; (2) Loans, secured by mortgage upon real estate within the county wherein such city is located, which loans shall not be in excess of fifty per centum of the appraised value of such real estate. All bonds, mortgages and other securities shall be deposited with and remain in the custody of the treasurer of said board, who shall collect all interest due thereon and all the income therefrom, as the same shall become due and payable. (§6555u.)

963. Sinking Fund. 5. The board of commissioners of such teacher's retirement fund shall establish a sinking fund, to the credit of which shall be put and deposited all gifts, grants, devises and bequests, and the unexpended balance remaining at the expiration of each fiscal year, and such sinking fund shall be and remain a permanent fund, and no part thereof shall be expended except the interest and income thereof and therefrom: *Provided*, That one-half of the amount added to such sinking fund any year may be used, if necessary, during the year immediately following. (§6555v.)

964. Pensions—How Classified. 6. Said teachers' retirement fund shall be used and devoted in the manner and for the purposes as follows: Any person electing the provisions of this act who shall have rendered twenty years or more of teaching service in the public schools, twelve of which may have been in public schools outside of said city of not less than 55,000 nor more than 60,000 inhabitants, according to the last preceding United States census, who ceases to be in the employ of the board of school trustees from any cause, shall be entitled to an annuity in accordance with the following schedule:

For 20 years of service	$300
For 21 years of service	325
For 22 years of service	350
For 23 years of service	375
For 24 years of service	400
For 25 years of service	430

For 26 years of service..... 460
For 27 years of service..... 490
For 28 years of service..... 525
For 29 years of service..... 560
For 30 or more years of service..... 600

Provided, That no teacher in the service of said board of school trustees at the time of the passage of this act may be credited with more than twenty-five (25) years of service. Such annuities shall be paid in four equal payments as follows: On January first, April first, July first, and October first, of each year. In the event that any teacher electing the provisions of this act for any reason leaves the services of the board of school trustees before said teacher has been credited with twenty (20) years of service, such teacher shall be entitled to withdraw from the treasury of said teachers' retirement fund, such sum as will equal all payments made by such teacher into the treasury of this fund as fees, without interest: *Provided, further*, That in the event that such teacher subsequently returns to the employ of the board of school trustees, such teacher shall be required to refund to said fund the amount so withdrawn, with interest thereon at the rate of 5 per cent per annum, such sum to be so refunded within one (1) year from the date of his or her return to service in the schools of said city of not less than 55,000 nor more than 60,000 inhabitants. In the event of the death of any teacher electing the provision of this act, before such teacher has been retired upon an annuity, then and in that case the heirs or legatees of such deceased teacher shall be entitled to a sum out of said fund equal to the sum paid into said fund by such deceased teacher, without interest: *Provided, further*, That no teacher retiring before being credited with thirty (30) years of service may be enitled to an annuity unless such teacher be granted such annuity by the board of commissioners of said retirement fund at the time of such retirement. (§6555w.)

965. Time of Service—How Computed. 7 In computing years of service, as provided in this act, the board of commissioners may include service as a public school teacher rendered outside of such city, not, however, in excess of twelve years, as a portion of such services necessary before any teacher shall be entitled to any of the benefits of this act: *Provided*, That nothing in this section shall affect the amount or amounts to be paid into such retirement fund by teachers before being entitled to an annuity. And any teacher may be given a leave of absence for study, professional improvement or temporary disability, not exceeding one (1) year in seven (7) and shall be regarded as a teacher and entitled to the benefits of this act: *Provided*, That during such absence he or she continues to pay into such fund the amount of assessment payable by such teacher as provided in the schedule in section 6 of this act. (§6555x.)

966. Services Before Passage of Act. 8. In computing time, under the provisions of this act, such time shall include services rendered before, as well as after, the taking effect of this act. And the full term or year of school in the corporation in which such service was rendered shall constitute a year of service under this act. (§6555y.)

967. By-laws for Management. [9. The board of commissioners shall have the power and authority to make all necessary by-laws providing for

the election of such commissioners to be elected as in this act provided, the counting and canvassing of the votes for the same, their meetings, for the collection of all moneys and other property coming or belonging to said fund, and all other matters connected with the care, preservation and disbursements of the same, and the proper execution of the purposes and provisions of this act. And any annuity authorized by the board under this act shall be subject to reduction by said board of commissioners whenever in its judgment the condition of the retirement fund renders such reduction proper or necessary and any annuity so reduced may thereafter be restored or increased, as such board may deem best. (§6555z.)

968. Pensions Exempt from Levy. 10. All annuities granted and payable out of said teachers' retirement fund shall be and are exempt from seizure or levy upon attachment, execution, supplemental process and all other process, whether mesne or final; and such annuities or any payment of the same shall not be subject to sale assignment or transfer by any beneficiary and such transfer shall be absolutely void. (§6555a1.)

969. Teacher Defined. 11. The term "teacher" as used in this act shall mean and include the superintendent of schools, the secretary to the superintendent, any principal, assistant principal, assistant superintendent, supervisor, assistant supervisor, person in charge of any special department of instruction, and any teacher or instructor now or hereafter regularly employed as such by the board of school trustees of such city (§6555b1.)

D. Cities from 20,000 to 100,000 population.

[Acts 1913, p. 898.]

970. Teachers' Pensions—Cities 20,000 to 100,000—Board. 1. That in every city in the State of Indiana having a population of not less than 20,000 nor more than 100,000 according to the last preceding United States census, there may be created a teachers' retirement fund, which shall be governed and managed by a board of commissioners, to be composed of five members, as follows:

The president of the board of school trustees of such city, the superintendent of public schools, one principal and two teachers regularly employed in the public schools of such city. Said principal and teachers shall be selected at a meeting of the public school teachers of such city on the fourth Saturday of March, 1913, in such manner and at such place or places as shall be determined and designated by the board of school trustees of such city; and thereafter there shall be selected on the fourth Saturday of March of each year one principal and two teachers as members of such board of commissioners. The commissioners shall hold their offices until their successors shall be selected or elected as above set forth. In the event of a vacancy upon said board occasioned by the death, resignation or disability of either of said principal or teachers, then the public school teachers of said city shall, within a reasonable time, upon the call of the president of said board of commissioners, hold a special meeting and elect a successor or successors. A majority of said commissioners shall constitute a quorum for the transaction of business pertaining to said retirement fund. Said commissioners shall receive no pay for their services as such, except the secretary and assistant treasurer, each

of whom may be paid such sums for services as may be fixed by the board of commissioners: *Provided, however,* That if anyone shall act as such secretary or assistant treasurer who shall receive any of the benefits of said retirement fund, as hereinafter provided, the amount of the salary so received by such secretary or assistant treasurer shall be deducted from the amount to which he or she would otherwise be entitled as a beneficiary. (§6555c1.)

971. Officers of Board—Duties. 2. Said board of commissioners shall elect from among its number a president, vice-president and secretary. The president shall preside at the meetings of the board and perform all other duties usual to such office. The vice-president shall perform the duties of the president in his absence. It shall be the duty of the secretary to keep a true and accurate account of the proceedings of said board of commissioners, and of the teachers of such city when acting upon matters with relation to said fund, and to turn over to his or her successor all books and papers pertaining to such office. The secretary of the superintendent of schools of such city shall act as assistant treasurer, and it shall be his or her duty to keep a true and correct statement of the account of each member with said retirement fund, to collect and turn over to the treasurer of said board all moneys belonging to said fund, and to render to the board a monthly account of his or her doings. He or she shall furnish bond in such amount as shall be determined and required by said board of commissioners and the board of commissioners shall allow him or her such compensation for his or her services as it may deem proper.

The treasurer of such city shall be ex officio the treasurer of said board of commissioners, and he shall receive and hold all moneys belonging to such teachers' retirement fund; he shall have the custody of all notes, bonds and other securities belonging to said fund, and shall collect the principal and interest of the same and shall be liable on his bond as such city treasurer for the performance of all the duties imposed upon him by this act and for the the faithful accounting of all moneys and securities, including both principal and interest which may come into his hands and which shall belong to such retirement fund. And he shall keep a separate account which shall show at all times the true condition of such fund. Said treasurer shall, upon the expiration of his term of office, account to said board of commissioners for all moneys, notes, bonds, and other securities coming into his hands, and for interest, income, profits, rentals and proceeds of and from the same, and he shall turn over to his successor all moneys, notes, bonds and other securities belonging to said fund.

The secretary, treasurer and assistant treasurer shall make a full, true and accurate report of their offices and trusts at each annual meeting of such teachers in March of each year. Their books shall at all times be open to inspection or examination. (§6555d1.)

972. Rules and Regulations. 3. Such board of commissioners shall have full charge and control of the teachers' retirement fund of such city with power to adopt and enforce all needful regulations governing the same, not inconsistent with this act. Such fund shall be derived from the following sources:

First. All moneys that may be given to said board of commissioners or to said fund or to the board of school trustees of said city, for the use of said

board of commissioners of teachers' retirement fund, by any person or persons. Such board of commissioners may take by gift, grant, devise or bequest, any money, choses in action, personal property, real estate, or any interest therein, and any such gift, grant, devise or bequest, may be absolute, or upon the condition that only the rent, profits and income arising from the same shall be applied to the use and purposes of said fund. Such board of commissioners shall be authorized to take such gift, grant, devise or bequest, under and by the style of the board of commissioners of the teachers' retirement fund, of such city, and to hold the same, or assign, transfer or sell the same, whenever proper and necessary, under and by such name.

Second. Every teacher electing to accept the provisions of this act shall be assessed upon his or her salary as follows: For the first twelve years of teaching service, $10.00 per year; for the next eight years of teaching service, $20.00 per year; for each subsequent year of teaching service, not exceeding thirty years in all, $25.00 per year.

Members who have paid the fees for thirty years of teaching service, shall not be required to pay any additional fees however long thereafter they may remain in the employ of the board of school trustees. These rates shall be paid in equal payments corresponding with the second, fourth, sixth and eighth months of the year for which teachers' salaries are paid.

Teachers accepting the provisions of this act shall be required to pay arrearages at the above rate with interest at 4 per cent per annum for such time of service as they are authorized to have recognized under the provisions of this act, provided that any teacher entitled, under the provisions of this act, to a credit for one or more years of teaching service at the time when he or she elects to accept the provisions of this act, may waive his or her right to such credit and pay only current rates from the time when the membership begins, and receive no credit for previous service. Such arrearages may be paid in cash during the first year or may be paid in five equal installments with interest at the rate of 5 per cent per annum, payable annually, upon the deferred installments; and in case the latter option is taken, interest upon the deferred installments shall commence at the end of the first year after electing to accept the provisions of this act: *Provided, further,* That in case any teacher is retired before he or she has paid in fees a sum equal to one-half of the maximum annuities to which he or she would be entitled, then and in that case there shall be deducted from the annuity to be paid to such retired teacher during the first year, such sum as will make the total amount paid by such teacher one-half of the maximum annuity to which he or she is entitled and the remainder of fees or arrearages due or to be paid by such retired teacher shall be payable in instalments as hereinbefore set forth.

Third. The board of school trustees of such city shall levy each year, in addition to all other taxes authorized by law, a special tax of one-fourth (¼) of one mill upon each one dollar ($1.00) of taxable property in the city, which sum shall be collected as other taxes are collected by law, and which shall be credited by the treasurer of such city to the said teachers' retirement fund, and shall not be used or devoted to any other than the purposes of said fund. And nothing in this act shall be deemed to take from said board of schools trustees the powers now given to said board in relation to the levy of taxes under existing statutes. (§6555e1.)

973. Fund Invested. 4. The board of commissioners of such teachers' retirement fund shall determine what part of said fund may be safely invested, and how much shall be retained for the immediate needs, demands and exigencies of said fund. Such investment shall be made: (1) In interest-bearing bonds of the United States, or of the State of Indiana, or in any bond lawfully issued by any state or county, township, city or other municipal corporation, either within or without the State of Indiana; (2) Loans, secured by mortgage upon real estate within the county wherein such city is located, which loans shall not be in excess of fifty per centum of the appraised value of such real estate. All bonds, mortgages and other securities shall be deposited with and remain in the custody of the treasurer of said board, who shall collect all interest due thereon and all the income therefrom, as the same shall become due and payable. (§6555f1.)

974. Sinking Fund. 5. The board of commissioners of such teachers' retirement fund shall establish a sinking fund, to the credit of which shall be put and deposited all gifts, grants, devises and bequests, and the unexpended balance remaining at the expiration of each fiscal year, and such sinking fund shall be and remain a permanent fund, and no part thereof shall be expended except the interest and income thereof and therefrom: *Provided*, That one-half of the amount added to such sinking fund any year may be used, if necessary, during the year immediately following. (§6555g1.)

975. Annual Pensions. 6. Said teachers' retirement fund shall be used and devoted in the manner and for the purposes as follows:

Any person electing the provisions of this act who shall have rendered twenty years or more of teaching service in the public schools, twelve of which may have been in public schools outside of said city of not less than 20,000 nor more than 100,000 inhabitants, according to the last preceding United States census, who ceases to be in the employ of the board of school trustees from any cause, shall be entitled to an annuity in accordance with the following schedule:

For 20 years of service	$300
For 21 years of service	325
For 22 years of service	350
For 23 years of service	375
For 24 years of service	400
For 25 years of service	430
For 26 years of service	460
For 27 years of service	490
For 28 years of service	525
For 29 years of service	560
For 30 or more years of service	600

Provided, That no teacher in the service of said board of school trustees at the time of the passage of this act may be credited with more than twenty-five (25) years of service.

Such annuities shall be paid in four equal payments as follows: On January first, April first, July first, and October first, of each year.

In the event that any teacher electing the provisions of this act for any reason leaves the services of the board of school trustees before said teacher

has been credited with twenty (20) years of service, such teacher shall be entitled to withdraw from the treasury of said teachers' retirement fund, such sum as will equal all payments made by such teacher into the treasury of this fund as fees, without interest.

Provided, further, That in the event that such teacher subsequently returns to the employ of the board of school trustees, such teacher shall be required to refund to said fund the amount so withdrawn, with interest thereon at the rate of 5 per cent per annum, such sum to be so refunded within one (1) year from the date of his or her return to service in the schools of said city of not less than 20,000 nor more than 100,000 inhabitants. In the event of the death of any teacher electing the provisions of this act, before such teacher has been retired upon an annuity, then and in that case the heirs or legatees of such deceased teacher shall be entitled to a sum out of said fund equal to the sum paid into said fund by such deceased teacher, without interest.

Provided, further, That no teacher retiring before being credited with thirty (30) years of service may be entitled to an annuity unless such teacher be granted such annuity by the board of commissioners of said retirement fund at the time of such retirement. (§6555h1.)

976. Years of Service—How Computed. 7. In computing years of service, as provided in this act, the board of commissioners may include service as a public school teacher rendered outside of such city, not, however, in excess of twelve years, as a portion of such services necessary before any teacher shall be entitled to any of the benefits of this act: *Provided,* That nothing in this section shall affect the amount or amounts to be paid into such retirement fund by teachers before being entitled to an annuity. And any teacher may be given a leave of absence for study, professional improvement or temporary disability, not exceeding one (1) year in seven (7) and shall be regarded as a teacher and entitled to the benefits of this act: *Provided,* That during such absence he or she continues to pay into such fund the amount of assessment payable by such teacher as provided in the schedule in section six (6) of this act. (§6555i1.)

977. Definition. 8. In computing time, under the provisions of this act, such time shall include services rendered before, as well as after, the taking effect of this act. And the full term or year of school in the corporation in which such service was rendered shall constitute a year of service under this act. (§6555j1.)

978. Election of Commissioners—By-laws. 9. The board of commissioners shall have the power and authority to make all necessary by-laws providing for the election of such commissioners to be elected as in this act, provided, the counting and canvassing of the votes for the same, their meetings, for the collection of all moneys and other property coming or belonging to said fund, and all other matters connected with the care, preservation and disbursement of the same, and the proper execution of the purposes and provisions of this act. And any annuity authorized by the board under this act shall be subject to reduction by said board of commissioners whenever in its judgment the condition of the retirement fund renders such reduction proper

or necessary, and any annuity so reduced may thereafter be restored or increased, as such board may deem best. (§6555k1.)

979. Pensions Exempt from Attachment. 10. All annuities granted and payable out of said teachers' retirement fund shall be and are exempt from seizure or levy upon attachment, execution, supplemental process and all other process, whether mesne or final; and such annuities or any payment of the same shall not be subject to sale, assignment or transfer by any beneciary and such transfer shall be absolutely void. (§6555l1.)

980. Definition of "Teacher." 11. The term "teacher" as used in this act shall mean and include the superintendent of schools, the secretary to the superintendent, any principal, assistant principal, assistant superintendent, supervisor, assistant supervisor, person in charge of any special department of instruction, and any teacher or instructor now or hereafter regularly employed as such by the board of school trustees of such city. (§6555m1.)

APPENDIX

CONSTITUTION OF THE STATE OF INDIANA

1851

Historical Sketch.

By an act of congress, dated April 19, 1816, the inhabitants of the territory of Indiana were authorized to form for themselves a constitution and state government, which state, when formed, should be admitted into the union upon the same footing with the original states.

Under this act, the members of the convention were elected on the second Monday of May, 1816, met in convention, at Corydon, on the second Monday of June, 1816, and proceeded at once to form the constitution, by the authority of congress, without an ordinance of the territory.

The constitution was completed on the twenty-ninth of June, 1816, unanimously adopted by the members of the convention—forty-three in number, and signed by all except one member from Clark county and one member from Warrick county. The constitution went into effect upon its adoption by the members of the convention which formed it. The first session of the general assembly, held by its authority, met at Corydon on the first Monday of November, 1816. The constitution of 1816 remained in force, without amendment, until the first day of November, 1851.

An act was passed January 15, 1849, "to provide for taking the sense of the qualified voters of the state on the calling of a convention to alter, amend, or revise the constitution of this state." At an election held under authority of this act a large majority of all the votes cast was in favor of holding the convention.

On the 18th day of January, 1850, the legislature passed an act to provide for a convention of the people of the State of Indiana, "to revise, amend, or alter the constitution of said state." By the authority of this act delegates were elected. They assembled in convention at the capitol, in the city of Indianapolis, in the first Monday in October, 1850, and completed their labors on the 10th day of February, 1851. This constitution was ratified by the votes of the people.

The first amendment to this constitution was ratified February 18, 1873, and related to the Wabash and Erie canal. Other amendments were adopted March 14, 1881.

Preamble.

To the end that justice be established, public order maintained, and liberty perpetuated: We, the people of the State of Indiana, grateful to Almighty God for the free exercise of the right to choose our own form of government, do ordain this constitution.

Article 1.

BILL OF RIGHTS.

Section 1. We declare that all men are created equal; that they are endowed by their creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that all power is inherent in the people: and that all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety, and well being. For the advancement of these ends, the people have at all times an indefeasible right to alter and reform their government.

Sec. 2. All men shall be secured in their natural right to worship Almighty God according to the dictates of their own consciences.

Sec. 3. No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

Sec. 4. No preference shall be given, by law, to any creed, religious society or mode of worship: and no man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent.

Sec. 5. No religious test shall be required as a qualification for any office of trust or profit.

Sec. 6. No money shall be drawn from the treasury for the benefit of any religious or theological institution.

Sec. 7. No person shall be rendered incompetent as a witness, in consequence of his opinion on matters of religion.

Sec. 8. The mode of administering an oath or affirmation shall be such as may be most consistent with, and binding upon, the conscience of the person to whom such oath or affirmation may be administered.

Sec. 9. No law shall be passed restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print, freely, on any subject whatever; but for the abuse of that right every person shall be responsible.

Sec. 10. In all prosecutions for libel, the truth of the matters alleged to be libelous may be given in justification.

Sec. 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable search or seizure shall not be violated, and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

Sec. 12. All courts shall be open; and every man, for injury done to him, in his person, property or reputation, shall have remedy by due course of law. Justice shall be administered freely and without purchase; completely, and without denial; speedily, and without delay.

Sec. 13. In all criminal prosecutions the accused shall have the right to a public trial, by an impartial jury in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witness face to face, and to have compulsory process for obtaining witnesses in his favor.

Sec. 14. No person shall be put in jeopardy twice for the same offense. No person, in any criminal prosecution, shall be compelled to testify against himself.

Sec. 15. No person arrested, or confined in jail, shall be treated with unnecessary rigor.

Sec. 16. Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishment shall not be inflicted. All penalties shall be proportioned to the nature of the offense.

Sec. 17. Offenses, other than murder or treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable when the proof is evident, or the presumption strong.

Sec. 18. The penal code shall be founded on the principle of reformation, and not of vindictive justice.

Sec. 19. In all criminal cases whatever, the jury shall have the right to determine the law and the facts.

Sec. 20. In all civil cases the right of trial by jury shall remain inviolate.

Sec. 21. No man's particular services shall be demanded without just compensation. No man's property shall be taken by law without just compensation; nor except in case of the state, without such compensation first assessed and tendered.

Sec. 22. The privilege of the debtor to enjoy the necessary comforts of life, shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted; and there shall be no imprisonment for debt, except in case of fraud.

Sec. 23. The general assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

Sec. 24. No ex post facto law, or law impairing the obligation of contract shall ever be passed.

Sec. 25. No law shall be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this constitution.

Sec. 26. The operation of the laws shall never be suspended, except by the authority of the general assembly.

Sec. 27. The privileges of the writ of habeas corpus shall not be suspended, except in case of rebellion or invasion, and then only if the public safety demand it.

Sec. 28. Treason against the state shall consist only in levying war against it, and giving aid and comfort to its enemies.

Sec. 29. No person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or upon his confession in open court.

Sec. 30. No conviction shall work corruption of blood or forfeiture of estate.

Sec. 31. No law shall restrain any of the inhabitants of the state from assembling together, in a peaceable manner, to consult for their common good; nor from instructing their representatives: nor from applying to the general assembly for redress of grievances.

Sec. 32. The people shall have a right to bear arms for the defense of themselves and the state.

Sec. 33. The military shall be kept in strict subordination to the civil power.

Sec. 34. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

Sec. 35. The general assembly shall not grant any title of nobility, nor confer hereditary distinctions.

Sec. 36. Emigration from the state shall not be prohibited.

Sec. 37. There shall be neither slavery nor involuntary servitude, within the state, otherwise than for the punishment of crime, whereof the party shall have been duly convicted. No indenture of any negro or mulatto, made or executed out of the bounds of the state, shall be valid within the state.

Article II.

SUFFRAGE AND ELECTION.

Section 1. All elections shall be free and equal.

Sec. 2. In all elections not otherwise provided for by this constitution, every male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the state during the six months, and in the township sixty days, and in the ward or precinct thirty days immediately preceding such election; and every male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this state during the six months, and in the township sixty days, and in the ward or precinct thirty days, immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside, if he shall have been duly registered according to law.

Sec. 3. No soldier, seaman or marine, in the army or navy of the United States, or their allies, shall be deemed to have acquired a residence in this state in consequence of having been stationed within the same; nor shall any such soldier, seaman or marine, have the right to vote.

Sec. 4. No person shall be deemed to have lost his residence in the state by reason of his absence either on business of the state or of the United States.

Sec. 5. [Stricken out by constitutional amendment of March 24, 1881.]

Sec. 6. Every person shall be disqualified from holding office during the term for which he may have been elected, who shall have given or offered a bribe, threat or reward to procure his election.

Sec. 7. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall agree to go out of the state to fight a duel, shall be ineligible to any office of trust or profit.

Sec. 8. The general assembly shall have power to deprive of the right of suffrage, and to render ineligible any person convicted of an infamous crime.

Sec. 9. No person holding a lucrative office or appointment, under the United States, or under this state, shall be eligible to a seat in the general assembly; nor shall any person hold more than one lucrative office at the same time, except as in this constitution expressly permitted: *Provided*, That offices in the militia, to which there is attached no annual salary, and the office of deputy postmaster, where the compensation does not exceed ninety dollars per annum, shall not be deemed lucrative: *And provided, also*, That counties containing less than one thousand polls may confer the office of clerk, recorder and auditor, or any two of said offices, upon the same person.

Sec. 10. No person who may hereafter be a collector or holder of public moneys, shall be eligible to any office of trust or profit until he shall have accounted for and paid over, according to law, all sums for which he may be liable

Sec. 11. In all cases in which it is provided that an office shall not be filled by the same person more than a certain number of years continuously an appointment pro tempore shall not be reckoned a part of that term.

Sec. 12. In all cases, except treason, felony and breach of the peace, electors shall be free from arrest in going to elections, during their attendance their, and in returning from the same.

Sec. 13. All elections by the people shall be by ballot; and all elections by the general assembly, or by either branch thereof, shall be viva voce.

Sec. 14. All general elections shall be held on the first Tuesday after the first Monday in November; but township elections may be held at such time as may be provided by law: *Provided*, That the general assembly may provide by law for the election of all judges of courts of general or appellate jurisdiction, by an election to be held for such officers only, at which time no other officer shall be voted for; and shall also provide for the registration of all persons entitled to vote.

Article III.

DISTRIBUTION OF POWERS.

Section 1. The powers of the government are divided into three separate departments: the legislative, the executive (including the administrative), and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another except as in this constitution expressly provided.

Article IV.

LEGISLATIVE.

Section 1. The legislative authority of the state shall be vested in a general assembly, which shall consist of a senate and house of representatives. The style of every law shall be, "Be it enacted by the general assembly of the State of Indiana;" and no law shall be enacted except by bill.

Sec. 2. The senate shall not exceed fifty, nor the house of representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts into which the state may, from time to time be divided.

Sec. 3. Senators shall be elected for the term of four years, and representatives for the term of two years, from the day next after their general election: *Provided, however*, That the senators elect, at the second meeting of the general assembly under this constitution, shall be divided, by lot, into two equal classes, as nearly as may be; and the seats of senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years; so that one-half, as nearly as possible, shall be chosen biennially forever thereafter. And in case of increase in the number of senators, they shall be so annexed by lot, to the one or the other of the two classes, as to keep them as nearly equal as practicable.

Sec. 4. The general assembly shall, at its second session after the adoption of this constitution, and every sixth year thereafter, cause an enumeration to be made of all the male inhabitants over the age of twenty-one years.

Sec. 5. The number of senators and representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of male inhabitants, above twenty-one years of age, in each: *Provided*, That the first and second elections of members of the general assembly, under this constitution, shall be according to the apportionment last made by the general assembly before the adoption of this constitution.

Sec. 6. A senatorial or representative district, where more than one county shall constitute a district, shall be composed of contigious counties; and no county, for senatorial apportionment, shall ever be divided.

Sec. 7. No person shall be a senator or a representative, who at the time of his election, is not a citizen of the United States; nor any one who has not been, for two year next preceding his election, an inhabitant of this state, and for one year next preceding his election, an inhabitant of the county or district when he may be chosen. Senators shall be at least twenty-five, and representatives at least twenty-one years of age.

Sec. 8. Senators and representatives, in all cases except treason, felony, and breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and shall not be subject to any civil process during the session of the general assembly, nor during the fifteen days next before the commencement thereof. For any speech or debate in either house, a member shall not be questioned in any other place.

Sec. 9. The sessions of the general assembly shall be held biennially, at the capital of the state, commencing on the Thursday next after the first

Monday of January, in the year one thousand eight hundred and fifty-three, and on the same day of every second year thereafter, unless a different day or place shall have been appointed by law. But if, in the opinion of the governor, the public welfare shall require it, he may, at any time, by proclamation call a special session.

Sec. 10. Each house, when assembled, shall choose its own officers (president of the senate excepted), judge the elections, qualifications and returns of its own members, determine its rules of proceeding, and sit upon its own adjournment. But neither house shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which it may be sitting.

Sec. 11. Two-thirds of each house shall constitute a quorum to do business; but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. A quorum being in attendance, if either house fail to effect an organization within the first five days thereafter, the members of the house so failing shall be entitled to no compensation from the end of the said five days, until an organization shall have been effected.

Sec. 12. Each house shall keep a journal of its proceedings, and publish the same. The yeas and nays, on any question, shall, at the request of any two members, be entered, together with the names of the members demanding the same, on the journal: *Provided*, That on a motion to adjourn, it shall all require one-tenth of the members present to order the yeas and nays.

Sec. 13. The doors of each house, and of committees of the whole, shall be kept open, except in such cases as, in the opinion of either house, may require secrecy.

Sec. 14. Either house may punish its members for disorderly behavior, and may, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

Sec. 15. Either house, during its session, may punish, by imprisonment, any person not a member, who shall have been guilty of disrespect to the house, by disorderly or contemptuous behavior in its presence; but such imprisonment shall not, at any time, exceed twenty-four hours.

Sec. 16. Each house shall have all powers necessary for a branch of the legislative department of a free and independent state.

Sec. 17. Bills may originate in either house, but may be amended or rejected in the other, except that bills for raising revenue shall originate in the house of representatives.

Sec. 18. Every bill shall be read by sections, on three several days in each house; unless, in case of emergency, two-thirds of the house where such bill may be depending shall, by a vote of yeas and nays, deem it expedient to dispense with this rule; but the reading of a bill by sections, on its final passage, shall in no case be dispensed with; and the vote on the passsge of every bill or joint resolution shall be taken by yeas and nays.

Sec. 19. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in the act, which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

Sec. 20. Every act and joint resolution shall be plainly worded, avoiding, as far as practicable, the use of technical terms.

Sec. 21. No act shall ever be revised or amended by mere reference to its title; but the act revised, or section amended, shall be set forth and published at full length.

Sec. 22. The general assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

Regulating the jurisdiction and duties of justices of the peace and of of constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;

Changing the names of persons;

For laying out, opening and working on, highways, and for the election or appointment of supervisors;

Vacating roads, town plats, streets, alleys and public squares;

Summoning and impaneling grand and petit juries, and providing for their compensation;

Regulating county and township business;

Regulating the election of county and township officers, and their compensation;

For the assessment and collection of taxes for state, county, township or road purposes;

Providing for supporting common schools, and for the preservation of school funds;

In relation to fees or salaries; except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required;

In relation to interest on money;

Providing for opening and conducting elections of state, county or township officers, and designating the places of voting;

Providing for the sale of real estate belonging to minors, or other persons laboring under legal disabilities, by executors, administrators, guardians or trustees.

Sec. 23. In all cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the state.

Sec. 24. Provisions may be made by general law, for bringing suits against the state, as to all liabilities originating after the adoption of this constitution; but no special act authorizing such suit to be brought, or making compensation to any person claiming damages against the state, shall ever be passed.

Sec. 25. A majority of all the members elected to each house shall be necessary to pass every bill or joint resolution; and all bills and joint resolu-

tions so passed shall be signed by the presiding officers of the respective houses.

Sec. 26. Any member of either house shall have the right to protest, and to have his protest, with his reasons for dissent, entered on the journal.

Sec. 27. Every statute shall be a public law, unless otherwise declared in the statute itself.

Sec. 28. No act shall take effect until the same shall have been published and circulated in the several counties of this state, by authority, except in case of emergency; which emergency shall be declared in the preamble or in the body of the law.

Sec. 29. The members of the general assembly shall receive for their services a compensation, to be fixed by law; but no increase of compensation shall take effect during the session at which such increase may be made. No session of the general assembly, except the first under this constitution, shall extend beyond the term of sixty-one days, nor any special session beyond the term of forty days.

Sec. 30. No senator or representative shall, during the term for which he may have been elected, be eligible to any office, the election to which is vested in the general assembly, nor shall he be appointed to any civil office of profit, which shall have been created, or the emoluments of which shall have been increased, during such term; but this latter provision shall not be construed to apply to any office elective by the people.

Article V.

EXECUTIVE.

Section 1. The executive powers of the state shall be vested in a governor. He shall hold his office during four years, and shall not be eligible more than four years in any period of eight years.

Sec. 2. There shall be a lieutenant-governor, who shall hold his office during four years.

Sec. 3. The governor and lieutenant-governor shall be elected at the times and places of choosing members of the general assembly.

Sec. 4. In voting for governor and lieutenant-governor the electors shall designate for whom they vote as governor, and for whom as lieutenant-governor. The returns of every election for governor and lieutenant-governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly.

Sec. 5. The persons, respectively, having the highest number of votes for governor and lieutenant-governor, shall be elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the general assembly shall, by joint vote, forthwith proceed to elect one of the said persons governor or lieutenant-governor, as the case may be.

Sec. 6. Contested elections for governor or lieutenant-governor shall be determined by the general assembly, in such manner as may be prescribed by law.

Sec. 7. No person shall be eligible to the office of governor or lieutenant-governor, who shall not have been five years a citizen of the United States,

and also a resident of the State of Indiana during the five years next preceding his election; nor shall any person be eligible to either of the said offices who shall not have attained the age of thirty years.

Sec. 8. No member of congress, or person holding any office under the United States, or under this state, shall fill the office of governor or lieutenant-governor.

Sec. 9. The official term of the governor or lieutenant-governor shall commence on the second Monday of January, in the year one thousand, eight hundred and fifty-three; and on the same day every fourth year thereafter.

Sec. 10. In case of the removal of the governor from office, or of his death, resignation or inability to discharge the duties of the office, the same shall devolve on the lieutenant-governor; and the general assembly shall, by law, provide for the case of removal from office, death, resignation, or inability, both of the governor and lieutenant-governor, declaring what officer then shall act as governor; and such officer shall act accordingly until the disability be removed or a governor be elected.

Sec. 11. Whenever the lieutenant-governor shall act as governor, or shall be unable to attend as president of the senate, the senate shall elect one of its own members as president for the occasion.

Sec. 12. The governor shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, or to suppress insurrection, or to repel invasion.

Sec. 13. He shall, from time to time, give to the general assembly information touching the condition of the state, and recommend such measures as he shall judge to be expedient.

Sec. 14. Every bill which shall have passed the general assembly shall be presented to the governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journals and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the governor's objections, to the other house, by which it shall likewise be reconsidered, and if approved by a majority of all the members elected to that house, it shall be a law. If any bill shall not be returned by the governor within three days, Sundays excepted, after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law unless the governor, within five days next after such adjournment, shall file such bill, with his objections thereto, in the office of the secretary of state, who shall lay the same before the general assembly at its next session in like manner as if it had been returned by the governor. But no bill shall be presented to the governor within two days next previous to the final adjournment of the general assembly.

Sec. 15. The governor shall transact all necessary business with the officers of government, and may require any information in writing from the officers of the administrative department, upon any subject relating to the duties of their respective offices.

Sec. 16. He shall take care that the laws be faithfully executed.

Sec. 17. He shall have the power to grant reprieves, commutations and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the general assembly at its next meeting, when the general assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law, and shall report to the general assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted: *Provided, however*, That the general assembly may, by law, constitute a council, to be composed of officers of state, without whose advice and consent the governor shall not have power to grant pardons, in any case, except such as may, by law, be left to his sole power.

Sec. 18. When, during a recess of the general assembly, a vacancy shall happen in any office, the appointment to which is vested in the general assembly, or when, at any time, a vacancy shall have occurred in any other state office, or in the office of judge of any court, the governor shall fill such vacancy by appointment, which shall expire when a successor shall have been elected and qualified.

Sec. 19. He shall issue writs of election to fill such vacancies as may have occurred in the general assembly.

Sec. 20. Should the seat of government become dangerous from disease or a common enemy, he may convene the general assembly at any other place.

Sec. 21. The lieutenant-governor shall, by virtue of his office, be president of the senate, have a right, when in committee of the whole, to join in debate, and to vote on all subjects, and, whenever the senate shall be equally divided, he shall give the casting vote.

Sec. 22. The governor shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the term for which he shall have been elected.

Sec. 23. The lieutenant-governor, while he shall act as president of the senate, shall receive for his services the same compensation as the speaker of the house of representatives; and any person acting as governor shall receive the compensation attached to the office of governor.

Sec. 24. Neither the governor nor lieutenant-governor shall be eligible to any other office during the term for which he shall have been elected.

Article VI.

Administrative.

Section 1. There shall be elected by the voters of the state, a secretary, an auditor, and a treasurer of state, who shall severally hold their offices for two years. They shall perform such duties as may be enjoined by law; and

no person shall be eligible to either of said offices more than four years in any period of six years.

Sec. 2. There shall be elected in each county, by the voters thereof, at the time of holding general elections, a clerk of the circuit court, auditor, recorder, treasurer, sheriff, coroner and surveyor. The clerk, auditor and recorder shall continue in office four years; and no person shall be eligible to the office of clerk, recorder or auditor more than eight years in any period of twelve years. The treasurer, sheriff, coroner and surveyor, shall continue in office two years; and no person shall be eligible to the office of treasurer or sheriff more than four years in any period of six years.

Sec. 3. Such other county and township officer as may be necessary, shall be elected or appointed, in such manner as may be prescribed by law.

Sec. 4. No person shall be elected or appointed as a county officer, who shall not be an elector of the county; nor any one who shall not have been an inhabitant thereof during one year next preceding his appointment, if the county shall have been so long organized; but if the county shall not have been so long organized, then within the limits of the county or counties out of which the same shall have been taken.

Sec. 5. The governor, and the secretary, auditor and treasurer of state, shall, severally, reside and keep the public records, books and papers, in any manner relating to the respective offices, at the seat of government.

Sec. 6. All county, township and town officers shall reside within their respective counties, townships and towns, and shall keep their respective offices at such places therein, and perform such duties as may be directed by law.

Sec. 7. All state officers shall, for crime, incapacity or negligence, be liable to be removed from office, either by impeachment by the house of representatives, to be tried by the senate, or by a joint resolution of the general assembly; two-thirds of the members elected to each branch voting, in either case, therefor.

Sec. 8. All state, county, township and town officers may be impeached, or removed from office in such manner as may be prescribed by law.

Sec. 9. Vacancies in county, township and town offices shall be filled in such manner as may be prescribed by law.

Sec. 10. The general assembly may confer upon the boards doing county business in the several counties, powers of a local administrative character.

Article VII.

JUDICIAL.

Section 1. The judicial power of the state shall be vested in a supreme court, in circuit courts, and in such other courts as the general assembly may establish.

Sec. 2. The supreme court shall consist of not less than three, nor more than five judges; a majority of whom shall form a quorum. They shall hold their offices for six years, if they so long behave well.

Sec. 3. The state shall be divided into as many districts as there are judges of the supreme cou t, and such districts shall be formed of contiguous

territory, as nearly equal in population as, without dividing a county, the same can be made. One of said judges shall be elected from each district and reside therein; but said judge shall be elected by the electors of the state at large.

Sec. 4. The supreme court shall have jurisdiction, co-extensive with the limits of the state, in appeals and writs of error, under such regulations and restrictions as may be prescribed by law. It shall also have such original jurisdiction as the general assembly may confer.

Sec. 5. The supreme court shall, upon the decision of every case, give a statement in writing of each question arising in the record of such case, and the decision of the court thereon.

Sec. 6. The general assembly shall provide by law for the speedy publication of the decisions of the supreme court, made under this constitution, but no judge shall be allowed to report such decision.

Sec. 7. There shall be elected by the voters of the state, a clerk of the supreme court, who shall hold his office four years, and whose duties shall be prescribed by law.

Sec. 8. The circuit courts shall each consist of one judge, and shall have such civil and criminal jurisdiction as may be prescribed by law.

Sec. 9. The state shall, from time to time, be divided into judicial circuits, and a judge for each circuit shall be elected by the voters thereof. He shall reside within the circuit, and shall hold his office for the term of six years, if he so long behave well.

Sec. 10. The general assembly may provide, by law, that the judge of one circuit may hold the courts of another circuit, in cases of necessity or convenience; and in case of temporary inability of any judge, from sickness or other cause, to hold the courts in his circuit, provisions may be made, by law, for holding such courts.

Sec. 11. There shall be elected, in each judicial circuit, by the voters thereof, a prosecuting attorney, who shall hold his office for two years.

Sec. 12. Any judge or prosecuting attorney, who shall have been convicted of corruption or other high crime, may, on information in the name of the state, be removed from office by the supreme court, or in such other manner as may be prescribed by law.

Sec. 13. The judges of the supreme court and circuit courts shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office.

Sec. 14. A competent number of justices of the peace shall be elected by the voters in each township in the several counties. They shall continue in office four years, and their powers and duties shall be prescribed by law.

Sec. 15. All judicial officers shall be conservators of the peace in their respective jurisdictions.

Sec. 16. No person elected to any judicial office shall, during the term the term for which he shall have been elected, be eligible to any office of trust or profit under the state, other than a judicial office.

Sec. 17. The general assembly may modify or abolish the grand jury system.

Sec. 18. All criminal prosecutions shall be carried on in the name, and by the authority of the state; and the style of all processes shall be "The State of Indiana."

Sec. 19. Tribunals of conciliation may be established with such powers and duties as shall be prescribed by law; or the powers and duties of the same may be conferred upon other courts of justice; but such tribunals or other courts, when sitting as such, shall have no power to render judgment to be obligatory on the parties unless they voluntarily submit their matters of difference and agree to abide the judgment of such tribunal or court.

Sec. 20. The general assembly, at its first session after the adoption of this constitution, shall provide for the appointment of three commissioners, whose duty it shall be to revive, simplify and abridge the rules, practice, pleadings and forms of the courts of justice. And they shall provide for abolishing the distinct forms of action at law now in use; and that justice shall be administered in a uniform mode of pleading, without distinction between law and equity. And the general assembly may, also, make it the duty of said commissioners to reduce into a systematic code the general statute law of the state; and said commissioners shall report the result of their labors to the general assembly, with such recommendations and suggestions, as to the abridgment and amendment, as to said commissioners may seem necessary or proper. Provision shall be made by law for filling vacancies, regulating the tenure of office and the compensation of said commissioners.

Sec. 21. Every person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice.

Article VIII.

EDUCATION.

Section 1. Knowledge and learning generally diffused throughout a community, being essential to the preservation of a free government, it shall be the duty of the general assembly to encourage, by all suitable means, moral, intellectual, scientific and agricultural improvement, and to provide by law for a general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all.

Sec. 2. The common school fund shall consist of the congressional township fund, and the lands belonging thereto;

The surplus revenue fund;

The saline fund, and the lands belonging thereto;

The bank tax fund, and the fund arising from the one hundred and fourteenth section of the charter of the state bank of Indiana;

The fund to be derived from the sale of county seminaries, and the moneys and property heretofore held for such seminaries; from the fines assessed for breaches of the penal laws of the state; and from all forfeitures which may accrue;

All lands and other estate which shall escheat to the state for want of heirs or kindred entitled to the inheritance;

All lands that have been or may hereafter be granted to the state, where no special purpose is expressed in the grant, and the proceeds of the sales thereof; including the proceeds of the sales of the swamp lands granted to the

State of Indiana by the act of congress, of the 28th of September, 1850, after deducting the expense of selecting and draining the same;

Taxes on the property of corporations that may be assessed by the general assembly for common school purposes.

Sec. 3. The principal of the common school fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of common schools, and to no other purpose whatever.

Sec. 4. The general assembly shall invest, in some safe and profitable manner, all such portions of the common school fund as have not heretofore been entrusted to the several counties; and shall make provisions, by law, for the distribution, among the several counties, of the interest thereof.

Sec. 5. If any county shall fail to demand its proportion of such interest for common school purposes, the same shall be reinvested for the benefit of such county.

Sec. 6. The several counties shall be held liable for the preservation of so much of the said fund as may be entrusted to them, and for the payment of the annual interest thereon.

Sec. 7. All trust funds held by the state shall remain inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created.

Sec. 8. The general assembly shall provide for the election, by the voters, of the state, of a state superintendent of public instruction, who shall hold his office for two years, and whose duties and compensation shall be prescribed by law.

Article IX.

STATE INSTITUTIONS.

Section 1. It shall be the duty of the general assembly to provide by law for the support of institutions for the education of the deaf and dumb, and of the blind; and, also, for the treatment of the insane.

Sec. 2. The general assembly shall provide houses of refuge for the correction and reformation of juvenile offenders.

Sec. 3. The county boards shall have power to provide farms as an asylum for those person who, by reasons of age, infirmity, or other misfortune, have claims upon the sympathies and aid of society.

Article X.

FINANCE.

Section 1. The general assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious or charitable purposes, as may be specially exempted by law.

Sec. 2. All the revenues derived from the sale of any of the public works belonging to the state, and from the net annual income thereof, and any surplus that may, at any time, remain in the treasury derived from taxation for general state purposes, after the payment of the ordinary expenses of the government, and of the interest on bonds of the state, other than bank bonds, shall be annually applied, under the direction of the general assembly, to the payment of the principal of the public debt.

Sec. 3. No money shall be drawn from the treasury but in pursuance of appropriations made by law.

Sec. 4. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the general assembly.

Sec. 5. No law shall authorize any debt to be contracted, on behalf of the state, except in the following cases: To meet casual deficits in the revenue; to pay the interest on the state debt; to repel invasion, suppress insurrection, or, if hostilities be threatened, provide for public defense.

Sec. 6. No county shall subscribe for stock in any incorporated company, unless the same be paid for at the time of such subscription; nor shall any county loan its credit to any incorporated company, nor borrow money for the purpose of taking stock in any such company; nor shall the general assembly ever, on behalf of the state, assume the debts of any county, city, town or township, nor of any corporation whatever.

Sec. 7. No law or resolution shall ever be passed by the general assembly of the State of Indiana that shall recognize any liability of this state to pay or redeem any certificate of stock issued in pursuance of an act entitled "An act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," passed January 19, 1846, and an act supplemental to said act, passed January 29, 1847, which by the provisions of the said acts, or either of them, shall be payable exclusively from the proceeds of the canal lands, and the tolls and revenues of the canal in said acts mentioned; and no such certificates of stocks shall ever be paid by this state.

[NOTE.—Agreed to by a majority of the members elected to each of the two houses of the general assembly, regular session of 1871, and referred to the general assembly to be chosen at the next general election. Agreed to by a majority of the members elected to each house of the general assembly, special session of 1872. Submitted to the electors of the state by an act approved January 28, 1873. Ratified by a majority of the electors, at an election held on the 18th day of February, 1873. Declared a part of the constitution by proclamation of Thomas A. Hendricks, governor, dated March 7, 1873.]

ARTICLE XI.

CORPORATION.

Section 1. The general assembly shall not have power to establish, or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this constitution.

Sec. 2. No bank shall be established otherwise than under a general banking law, except as provided in the fourth section of this article.

Sec. 3. If the general assembly shall enact a general banking law, such law shall provide for the registry and countersigning, by an officer of state, of all paper credit designed to be circulated as money; and ample collateral security, readily convertible into specie, for the redemption of the same in gold or silver, shall be required; which collateral security shall be under the control of the proper officer or officers of the state.

Sec. 4. The general assembly may also charter a bank with branches, without collateral security, as required in the preceding section.

Sec. 5. If the general assembly shall establish a bank with branches, the branches shall be mutually responsible for each other's liabilities, upon all paper credit issued as money.

Sec. 6. The stockholders in every bank, or banking company, shall be individually responsible to an amount over and above their stock, equal to their respective shares of stock, for all debts or liabilities of said bank or banking company.

Sec. 7. All bills or notes issued as money shall be, at all times, redeemable in gold or silver; and no law shall be passed, sanctioning, directly or indirectly, the suspension, by any bank or banking company, of specie payments.

Sec. 8. Holders of bank notes shall be entitled, in case of insolvency, to preference of payment over all other creditors.

Sec. 9. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals loaning money.

Sec. 10. Every bank, or banking company, shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter to close its business.

Sec. 11. The general assembly is not prohibited from investing the trust funds in a bank with branches; but in case of such investment, the safety of the same shall be guaranteed by unquestionable security.

Sec. 12. The state shall not be a stockholder in any bank, after the expiration of the present bank charter; nor shall the credit of the state ever be given, or loaned, in aid of any person, association, or corporation, nor shall the state hereafter become a stockholder in any corporation or association.

Sec. 13. Corporations, other than banking, shall not be created by special act, but may be formed under general laws.

Sec. 14. Dues from corporations, other than banking, shall be secured by such individual liability of the corporators, or other means, as may be prescribed by law.

Article XII.

MILITIA.

Section 1. The militia shall consist of all able-bodied white male persons between the ages of eighteen and forty-five years, except as may be exempted by the laws of the United States, or of this state; and shall be organized, officered, armed, equipped and trained in such manner as may be provided by law.

Sec. 2. The governor shall appoint the adjutant, quartermaster and commissary generals.

Sec. 3. All militia officers shall be commissioned by the governor, and shall hold their offices not longer than six years.

Sec. 4. The general assembly shall determine the method of dividing the militia into divisions, brigades, regiments, battalions and companies, and fix the rank of all staff officers.

Sec. 5. The militia may be divided into classes of sedentary and active militia in such manner as shall be prescribed by law.

Sec. 6. No person conscientiously opposed to bearing arms shall be compelled to do militia duty; but such person shall pay an equivalent for exemption; the amount to be prescribed by law.

Article XIII.

POLITICAL AND MUNICIPAL CORPORATIONS.

Section 1. No political or municipal corporations in this state shall ever become indebted, in any manner or for any purpose, to any amount, in the aggregate exceeding two percentum on the value of taxable property within such corporation, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness, and all bonds or obligations, in excess of such amount, given by such corporations, shall be void: *Provided*, That in time of war, foreign invasion, or other great public calamity, on petition of a majority of the property owners, in number and value, within the limits of such corporation, the public authorities, in their discretion, may incur obligation necessary for the public protection and defense, to such an amount as may be requested in such petition.

[The original article 13 is stricken out and the amendment of March 24, 1881, inserted in lieu thereof.]

Article XIV.

BOUNDARIES.

Section 1. In order that the boundaries of the state may be known and established, it is hereby ordained and declared that the State of Indiana is bounded on the east by the meridian line which forms the western boundary of the State of Ohio; on the south by the Ohio river, from the mouth of the Great Miami river to the mouth of the Wabash river; on the west, by a line drawn along the middle of the Wabash river, from its mouth to a point where a due north line, drawn from the town of Vincennes, would last touch the northwestern shore of said Wabash river; and thence by a due north line, until the same shall intersect an east and west line, drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north, by said east and west line, until the same shall intersect the first-mentioned meridian line, which forms the western boundary of the State of Ohio.

Sec. 2. The State of Indiana shall possess jurisdiction, and sovereignty co-extensive with the boundaries declared in the preceding section; and shall have concurrent jurisdiction, in civil and criminal cases, with the State of

Kentucky on the Ohio river, and with the State of Illinois on the Wabash river, so far as said rivers form the common boundary between this state and said states respectively.

Article XV.

MISCELLANEOUS.

Section 1. All officers whose appointment is not otherwise provided for in this constitution, shall be chosen in such manner as now is, or hereafter may be, prescribed by law.

Sec. 2. When the duration of any office is not provided for by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the general assembly shall not create any office, the tenure of which shall be longer than four years.

Sec. 3. Whenever it is provided in this constitution, or in any law which may be hereafter passed, that any officer, other than a member of the general assembly, shall hold his office for any given term, the same shall be construed to mean that such officer shall hold his office for such term, and until his successor shall have been elected and qualified.

Sec. 4. Every person elected or appointed to any office under this constitution shall, before entering on the duties thereof, take an oath or affirmation to support the constitution of this state and of the United States, and also an oath of office.

Sec. 5. There shall be a seal of the state, kept by the governor for official purposes, which shall be called the seal of the State of Indiana.

Sec. 6. All commissions shall issue in the name of the state, shall be signed by the governor, sealed by the state seal, and attested by the secretary of state.

Sec. 7. No county shall be reduced to an area less than four hundred square miles; nor shall any county under that area be further reduced.

Sec. 8. No lottery shall be authorized, nor shall the sale of lottery tickets be allowed.

Sec. 9. The following grounds owned by the state in Indianapolis, namely: The state house square, the governor's circle, and so much of outlot numbered one hundred and forty-seven as lies north of the arm of the central canal, shall not be sold or leased.

Sec. 10. It shall be the duty of the general assembly to provide for the permanent enclosure and preservation of the Tippecanoe battle ground.

Article XVI.

AMENDMENTS.

Section 1. Any amendment or amendments to this constitution may be proposed in either branch of the general assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals and referred to the general assembly to be chosen at the next general election; and, if in the general assembly

so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such amendment or amendments to the electors of the state, and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this constitution.

Sec. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately; and while such an amendment or amendments which shall have been agreed upon by one general assembly, shall be awaiting the action of the succeeding general assembly, or of the electors, no additional amendments or amendment shall be proposed.

SCHEDULE.

This constitution, if adopted, shall take effect on the first day of November, in the year one thousand eight hundred and fifty-one, and shall supersede the constitution adopted in the year one thousand eight hundred and sixteen. That no inconvenience may arise from the change in the government, it is hereby ordained as follows:

First. All laws now in force, and not inconsistent with this constitution, shall remain in force until they shall expire or be repealed.

Second. All indictments, prosecutions, suits, pleas, plaints and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, certiorari and injunctions shall be carried on in the several courts, in the same manner as is now provided by law.

Third. All fines, penalties and forfeitures, due or accruing to the state, or to any county therein, shall inure to the state, or to such county in the manner prescribed by law. All bonds executed to the state, or to any officer, in his official capacity, shall remain in force, and inure to the use of those concerned.

Fourth. All acts of incorporation for municipal purposes shall continue in force under this constitution, until such time as the general assembly shall, in its discretion, modify or repeal the same.

Fifth. The governor, at the expiration of the present official term, shall continue to act until his successor shall have been sworn into office.

Sixth. There shall be a session of the general assembly, commencing on the first Monday of December, in the year one thousand eight hundred and fifty-one.

Seventh. Senators now in office and holding over, under the existing constitution, and such as may be elected at the next general election, and the representatives then elected, shall continue in office until the first general election under this constitution.

Eighth. The first general election under this constitution shall be held in the year one thousand eight hundred and fifty-two.

Ninth. The first election for governor, lieutenant-governor, judges of the supreme court and circuit courts, clerk of the supreme court, prosecuting attorney, secretary, auditor, and treasurer of state, and state superintendent

of public instruction, under this constitution, shall be held at the general election in the year one thousand eight hundred and fifty-two; and such of said officers as may be in office when this constitution shall go into effect, shall continue in their respective offices until their successors shall have been elected and qualified.

Tenth. Every person elected by popular vote, and now in any office which is continued by this constitution, and every person who shall be so elected to any such office before the taking effect of this constitution (except as in this constitution otherwise provided), shall continue in office until the term for which such person has been, or may be, elected, shall expire: *Provided*, That no such person shall continue in office after the taking effect of this constitution, for a longer period than the term of such office in this constitution prescribed.

Eleventh. On the taking effect of this constitution, all officers thereby continued in office shall, before proceeding in the further discharge of their duties, take an oath or affirmation to support this constitution.

Twelfth. All vacancies that may occur in existing offices prior to the first general election under this constitution, shall be filled in the manner now prescribed by law.

Thirteenth. At the time of submitting this constitution to the electors for their approval or disapproval, the article numbered thirteen, in relation to negroes and mulattoes, shall be submitted as a distinct proposition, in the following form: "Exclusion and colonization of negroes and mulattoes," "Aye," or "No." And if a majority of the votes cast shall be in favor of said article, then the same shall form a part of this constitution, otherwise it shall be void and form no part thereof.

Fourteenth. No article or section of this constitution shall be submitted as a distinct proposition to a vote of the electors otherwise than as herein provided.

Fifteenth. Whenever a portion of the citizens of the counties of Perry and Spencer shall deem it expedient to form, of the contiguous territory of said counties, a new county, it shall be the duty of those interested in the organization of such new county, to lay off the same by proper metes and bounds of equal portions as nearly as practicable, not to exceed one-third of the territory of each of said counties. The proposal to create such new county shall be submitted to the voters of said counties, at a general election, in such manner as shall be prescribed by law. And if a majority of all the votes given at said election shall be in favor of the organization of said new county, it shall be the duty of the general assembly to organize the same out of the territory thus designated.

Sixteenth. The general assembly may alter or amend the charter of Clarksville, and make such regulations as may be necessary for carrying into effect the objects contemplated in granting the same, and the funds belonging to said town shall be applied according to the intention of the grantor.

Done in convention, at Indianapolis, the tenth day of February, in the year of our Lord, one thousand eight hundred and fifty-one, and of the independence of the United States, the seventy-fifth.

GEORGE WHITEFIELD CARR,
President and Delegate from the County of Lawrence.

Attest: WM. H. ENGLISH,
Principal Secretary.

GEO. L. SITES,
HERMAN. G. BARKWELL,
ROBERTS M. EVANS,
Assistant Secretaries.

ADDENDA

The original sections stricken out or amended read as follows:

ARTICLE II.

SUFFRAGE AND ELECTION.

SECTION 2. In all elections, not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the state during the six months immediately preceding such election; and every white male, of foreign birth of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this state during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside.

SEC. 5. No negro or mulatto shall have the right of suffrage.

SEC. 14. All general elections shall be held on the second Tuesday in October.

ARTICLE IV.

LEGISLATIVE.

SECTION 4. The general assembly shall, at its second session after the adoption of this constitution, and every six years thereafter, cause an enumeration to be made of all the white male inhabitants over the age of twenty-one years.

SEC. 5. The number of senators and representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of white male inhabitants, above twenty-one years of age, in each: *Provided*, That the first and second elections of members of the general assembly, under this constitution, shall be according to the apportionment last made by the general assembly, before the adoption of this constitution.

SEC. 22. In relation to fees or salaries.

ARTICLE VII.

JUDICIAL.

SECTION 1. The judicial power of the state shall be vested in a supreme court, in circuit courts, and in such inferior courts as the general assembly may establish.

ARTICLE XIII.

NEGROES AND MULATTOES.

SECTION 1. No negro or mulatto shall come into, or settle in, the state, after the adoption of this constitution.

SEC. 2. All contracts made with any negro or mulatto coming into the state, contrary to the provisions of the foregoing section, shall be void; and any person who shall employ such negro or mulatto, or otherwise encourage him to remain in the state, shall be fined in any sum not less than ten dollars, nor more than five hundred dollars.

SEC. 3. All fines which may be collected for a violation of the provisions of this article, or of any law which may hereafter be passed for the purpose of carrying the same into execution, shall be set apart and appropriated for the colonization of such negroes and mulattoes, and their descendants, as may be in the state at the adoption of this constitution, and may be willing to emigrate.

SEC. 4. The general assembly shall pass laws to carry out the provisions of this article.

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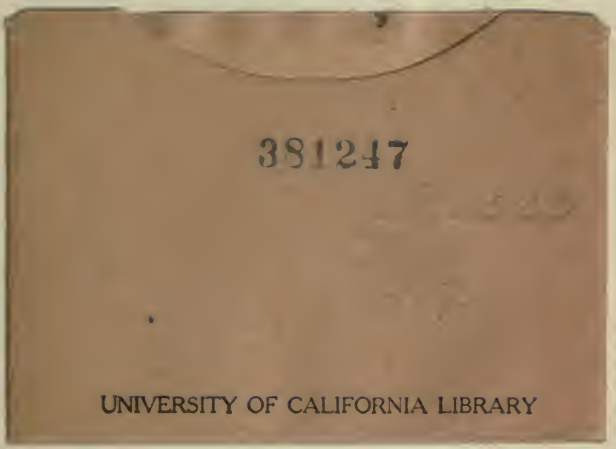
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